

STATE OF MISSOURI

ED100807

vs.

JEFFREY WEINHAUS

VOLUME 1
BEFORE THE HONORABLE JUDGE KEITH SUTHERLAND
TRANSCRIPT OF TRIAL TESTIMONY
TAKEN OCTOBER 8TH, 2013

REPORTED BY KIM WROCKLAGE, CCR



WROCKLAGE REPORTING, LLC
467 BROOKFIELD DRIVE - WASHINGTON, MO 63090
(636) 583-1953 or (314) 210-6917

1 IN THE CIRCUIT COURT OF FRANKLIN COUNTY

2 STATE OF MISSOURI

3

4 STATE OF MISSOURI,

5 PLAINTIFF, ED100807

6 vs. No. 12AB-CR02409-01

7 JEFFREY WEINHAUS,

8 DEFENDANT.

9

10 Volume 1, Trial Testimony taken at the
11 Franklin County Justice Center, 401 E. Main Street,
12 Union, in the County of Franklin, State of Missouri,
13 on the 8th day of October, 2013, before Kim
14 Wrocklage, CCR.

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1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4 Mr. Robert "Bob" Parks

5 Franklin County Prosecuting Attorney's Office

6 20 N. Church Street, 2nd Floor

7 Union, MO 63084

8 (636) 583-6370

9

10 FOR THE DEFENDANT:

11 Mr. Hugh A. Eastwood (heastwood@eastwoodlawstl.com)

12 Law Offices of Hugh A. Eastwood

13 7777 Bonhomme, Ste. 1603

14 Clayton, MO 63105

15 (314) 727-3533

16

17 Mr. Christopher M. Combs (combschris1@gmail.com)

18 Law Offices of Christopher M. Combs

19 4542 West Pine Blvd.

20 St. Louis, MO 63108

21 (314) 578-1465

22

23 ALSO PRESENT: Jeffrey Weinhaus

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1 JUDGE SUTHERLAND: Motions we need to take
2 up prior to bringing the jury panel in, so let's do
3 that now. I'm not sure what was filed first and
4 what difference it makes, what do you want to take
5 up first?

6 MR. PARKS: We can take up the State's
7 motion first, Your Honor.

8 MR. EASTWOOD: That's fine.

9 JUDGE SUTHERLAND: You're talking about the
10 State's motion in limine two?

11 MR. PARKS: Yes, Your Honor.

12 JUDGE SUTHERLAND: Argument for the State.

13 MR. PARKS: Yes, Your Honor. Mr. Eastwood
14 contacted me yesterday and asked me if I would
15 stipulate to the You Tube video from Wal-Mart, which
16 I said I would; however, it is the State's position
17 that even though the You Tube video of the
18 defendant, which we are going to show, that it's
19 still up on You Tube is irrelevant and prejudicial.
20 I do not believe Mr. Eastwood is going to bring in
21 anybody from You Tube that is going to testify to
22 their standards or anything. I don't even know if
23 You Tube knows about this video. We have not
24 contacted them to have it down because it's
25 irrelevant at this point, because what we were

1 concerned about is the actions in 2012. Arguing
2 that it was still up now and so therefore You Tube
3 thinks that it's an okay video and doesn't have any
4 threats to anybody is irrelevant and prejudicial at
5 this time because we don't know what standards, we
6 have nobody coming from You Tube to talk about the
7 standards and to whether or not they would or would
8 not take the video down.

9 JUDGE SUTHERLAND: Mr. Eastwood.

10 MR. EASTWOOD: Your Honor, we discussed the
11 issue of this speech extensively obviously in the
12 Motion to Dismiss and the 8th Circuit's factors,
13 which are both objective and subjective in
14 evaluating speech, and the Court already ruled that
15 Judge Kelly Parker's testimony would be admissible
16 in terms of his subjective reaction to the speech.
17 I think it's important to remember that this speech
18 was expressed in a context and the context was the
19 You Tube website on the worldwide web. And so I
20 think by allowing, for instance, Judge Parker's
21 reaction to the speech, which is a subjective
22 reaction, I think it's fair to inquire of the
23 investigating trooper whether or not he contacted
24 You Tube, whether or not he investigated the terms
25 of service and guidelines that are posted on the

1 website along with the video on the same and which
2 do prohibit threats and to inquire what contact he
3 had with You Tube, if any, and obviously if he says
4 I didn't, that's something the jury can hear because
5 the jury is not just making an objective evaluation
6 of this speech, they're also making an evaluation of
7 the speech in the totality of the circumstances.
8 And the context matters, the speech was not, for
9 instance, in the form of a letter mailed directly to
10 Judge Parker. The speech was in the form of a video
11 uploaded to the worldwide web, which is a public
12 forum. It's a public forum that has terms and
13 standards and conditions that are publicly posted.
14 I think it's fair -- if the State is allowed, for
15 instance, to introduce Judge Parker's testimony as
16 to his opinion on the speech, that I can also
17 introduce the terms and guidelines that You Tube has
18 posted on their website, and the fact that it is
19 still up there, I think, is relevant. The fact is
20 that the State, if we look at the elements of the
21 offense, the elements include whether the
22 defendant's speech was reasonably calculated to
23 harass Judge Parker and whether the defendant so
24 acted with the purpose to harass Judge Parker in the
25 performance of Judge Parker's official duties. The

1 fact of the matter is this speech is still up there,
2 anyone can go online and access it. It has not been
3 banned or taken down by You Tube, and therefore I
4 think that matters in terms of what the jury needs
5 to evaluate as to this speech, as to its effect,
6 whether it was reasonably calculated to harass,
7 whether it had a purpose to harass, the fact that
8 it's still up there, that nothing has happened to
9 Judge Parker so far, I think these are all relevant
10 facts.

11 JUDGE SUTHERLAND: Anything else?

12 MR. PARKS: Not at this point, Your Honor.

13 JUDGE SUTHERLAND: Well, whatever You Tube
14 has done or not done has been done by unknown IT
15 people presumably out in California, I would guess.
16 We don't know why they have done or not done any
17 particular thing, and I think it's just simply
18 speculation to question any of the witnesses about
19 whether they contacted You Tube or made any requests
20 to have this video removed or anything of the sort.
21 We don't know why You Tube does or does not do
22 anything. I read reports of them removing political
23 speech that they don't like, although that's
24 obviously hearsay from newspaper articles, and I
25 think we're just getting into speculation if we

1 permit that. So I am going to grant the State's
2 motion in limine to prohibit any reference to the
3 fact that the You Tube video is still being shown
4 after the date of the offenses charged here.

5 MR. EASTWOOD: Your Honor, may I inquire of
6 the Court. Can I at least, on my cross examination
7 of the investigating trooper, can I inquire whether
8 or not he did make any contact with You Tube, at
9 least preliminary questions such as that, did you
10 have contact with the web host, anything like that,
11 did you investigate who the account holder was,
12 their IP address, user name or password, just
13 general?

14 JUDGE SUTHERLAND: I don't think so. I
15 think that comes within the ruling on the motion, so
16 I would say no. You got a motion in limine as well?

17 MR. EASTWOOD: I do, Your Honor. We
18 discussed it orally last time. I have since filed a
19 written second motion in limine.

20 JUDGE SUTHERLAND: I have had a chance to
21 read that this morning, by the way.

22 MR. EASTWOOD: The troopers recovered a
23 shotgun and handgun. This is not the handgun that
24 was on the defendant's person. This was just
25 another handgun from the defendant's car, which I

1 believe the evidence will show is his wife's, now
2 ex-wife's Subaru. Those two weapons were in the car
3 after the defendant exited the car. The troopers
4 had no knowledge of their presence during the
5 interaction with the defendant. They had no
6 knowledge of their presence when they shot the
7 defendant. The recording of the defendant indicates
8 that his state of mind believed this ruse that his
9 computers were going to be returned to him, not that
10 he was about to be arrested. There's no charges
11 involving unlawful possession of these weapons or
12 anything of that sort. So there's no collateral
13 evidence of bad intent or bad state of mind by the
14 defendant. The State, of course, wants to argue the
15 defendant was loaded for bear. I think that's just
16 extremely prejudicial. There's no indication that
17 these guns came into -- had anything to do with the
18 series of events at the gas station. I don't
19 think -- there's nothing illegal about having a
20 shotgun in your car, back of your car. I think it
21 would be prejudicial to the defendant for the State
22 to argue that somehow he had come with an arsenal.
23 I think if they had somehow been used in the
24 incident, if they had somehow come into the
25 officers' knowledge, if they somehow were involved,

1 it would be a different thing but here it's
2 prejudicial.

3 MR. PARKS: Your Honor, in State versus
4 Whitt, 371 sw 2nd 215, this same type of incident
5 came up into where a car was used, and then when the
6 defendants were taken into custody, the car was
7 searched. The Supreme Court has said that
8 automobiles may be searched incident to the arrest
9 or the totality of the circumstances going on there.
10 This car was driven to the scene by the defendant.
11 He was armed when he got out of the car. After the
12 shootout, the entire scene was searched for
13 evidence. The car was in the middle of the search
14 scene, and these other weapons were found in the
15 car. It's standard police procedure to search and
16 inventory everything at a crime scene, and I believe
17 that these items, which were found at the crime
18 scene, should be allowed to come in.

19 JUDGE SUTHERLAND: Anything further?

20 MR. EASTWOOD: Your Honor, I have not seen
21 this case that the -- the Whitt case that Mr. Parks
22 cited, so I can't respond to that, but I will say
23 this. Of course the police can search a vehicle
24 pursuant to arrest, and of course the contents would
25 be admissible if they were evident relative to the

1 crime, but here it's not relevant. It has nothing
2 to do with the attempted assault charge, nothing to
3 do with the resisting arrest charge. The troopers
4 were not aware of it. It was not in the immediate
5 possession or within arm's reach of the defendant.
6 He was out of his car when this incident occurred,
7 and therefore it shows nothing except allowing the
8 State to sort of prejudice him with this argument
9 that he was loaded for bear. Loaded for bear, if he
10 had used them, if he had popped out of the car with
11 an arsenal, I think it would be relevant, but he
12 didn't.

13 JUDGE SUTHERLAND: Well, that motion is
14 denied. However, I think it's appropriate for
15 the -- not inappropriate for the State to introduce
16 the evidence of the search. Whether I let the State
17 argue that the defendant was loaded for bear is
18 quite another matter, but as far as the evidence of
19 the guns themselves being found in the search of the
20 car, the motion is denied.

21 MR. EASTWOOD: Your Honor, in terms of that
22 also, of course, would then open the door to the
23 defendant being able to produce rebuttal evidence as
24 to state of mind or intent.

25 JUDGE SUTHERLAND: That remains to be seen.

1 I'll take that up during the trial itself. You also
2 have defendant's amended motion to dismiss the
3 charge of tampering with a judicial officer for a
4 defect in the institution of the prosecution. As I
5 said a few minutes ago, I have had a chance to
6 read --

7 MR. PARKS: Didn't we already do that?

8 MR. EASTWOOD: We did.

9 MR. PARKS: We had done that and that was
10 denied.

11 MR. EASTWOOD: I simply renew my motion that
12 the speech ought not go to the jury. It's not a
13 threat, it's not an incitement to violence, would
14 not reasonably harass a judge under the 8th
15 Circuit's dimwitte (phonetic) factors and for that
16 reason I renew it.

17 JUDGE SUTHERLAND: What you need to do
18 during trial when we get to that point is object
19 again for the same grounds that would be stated in
20 the motion rather than rearguing it in front of the
21 jury.

22 MR. EASTWOOD: Absolutely, also I renew my
23 motion to sever.

24 JUDGE SUTHERLAND: Both of those motions are
25 again denied. Anything else we need to take up

1 preliminarily?

2 MR. EASTWOOD: Yes. I have a point of
3 clarification. The Court previously ruled at the
4 pretrial hearing on defendant's original motion in
5 limine, and the Court granted, at least as to the
6 prosecution's case in chief, that the particulars of
7 the defendant's Bulletinman statements and
8 publications, other than the video that is in
9 question and subsequent videos that Sergeant Folsom
10 viewed, should be excluded. And so what I'd like to
11 clarify, just for the record before we start having
12 testimony, is I don't think Sergeant Folsom -- when
13 I took his deposition, he talked also about hearing
14 things about other statements the defendant had made
15 or that he was going -- that he had gone to a 911
16 call center, that he was going to occupy a
17 courthouse, I think that's hearsay and I don't think
18 that's part of the record either that Sergeant
19 Folsom used in filing his affidavit for the search
20 in seizing the computers. So what I don't want to
21 do is sort of kind of expand the record of the
22 defendant's speech that is being submitted to the
23 jury in terms of what the threat was. I believe,
24 and I think we agree, that the threat was that video
25 that we all watched and discussed and the jury is

1 going to see. I don't want sort of hearsay remarks
2 coming in to kind of supplement that speech.

3 MR. PARKS: Your Honor, the State is going
4 to show the investigation that the officer did.
5 Part of this investigation was going to Crawford
6 County to see what security measures they had taken.
7 Part of the things would be the statements that the
8 defendant made about those when he was confronted at
9 his house.

10 JUDGE SUTHERLAND: Is that when the search
11 warrant was served or another time?

12 MR. PARKS: When they went to interview the
13 defendant the first time about the video and that's
14 when they detected the marijuana. So it's all the
15 things leading up to them going to his house to
16 question him about the video and then finding the
17 marijuana, but what the State is going to show is
18 why did the troopers, how did they find this guy,
19 what did they do in their background investigation
20 before they went out there.

21 JUDGE SUTHERLAND: Well, anything further
22 Mr. Eastwood?

23 MR. EASTWOOD: I think we can make a
24 distinction between what the defendant said at his
25 house to the witness, to the troopers when they

1 testify versus what the troopers kind of heard
2 around the courthouse. That's my fear. In the
3 deposition the troopers testified they also heard
4 things down in Crawford County from people, and I
5 think that's hearsay. I can obviously make a
6 hearsay objection at trial, but if that bell is
7 rung, I think that's a pretty big bell that you
8 can't unring in terms of I heard these things from
9 people at the courthouse and they were terrified.
10 If they were witnesses and they were going to come
11 to testify, that would be a different thing, but
12 other than that it's hearsay.

13 JUDGE SUTHERLAND: At least to a limited
14 extent I think it's admissible to show why the
15 officer did what he did, or officers, if there are
16 more than one. Certainly not admissible to prove
17 the truth of it. I think the jury sometimes has
18 problems with that. I think it's admissible to an
19 extent to show why the officer did what he did.
20 Make your objection at trial and we'll deal with it
21 at the time. Perhaps I'll say it loud enough so
22 that the jury understands it's not admitted for the
23 truth of it.

24 MR. PARKS: I have two points of order I'd
25 like to bring up with the Court. No. 1, on voir

1 dire, normally in this circuit what we do is we ask
2 general questions, and if we get hands then we go to
3 the people that raise their hands to ask specific
4 questions. We do not just start with okay, juror
5 No. 1 what do you think about this, juror No. 2. Is
6 that the way the court --

7 JUDGE SUTHERLAND: Yes, that's the way I
8 always proceed.

9 MR. PARKS: Secondly, on objections, what we
10 have started doing here is we have made our
11 objections like Judge, I object to that for
12 relevance and then we come to the bench and make the
13 argument. We don't make the argument here to the
14 Court in front of the jury. Do you want that?

15 JUDGE SUTHERLAND: If there's any real
16 argument on it, if it's just a quick one or two
17 three word objection, it obviously should be
18 overruled or granted, but if there is going to be
19 some serious argument about it, I'd like you to come
20 up to the bench, over to this side of the bench
21 where the reporter can hear you.

22 MR. EASTWOOD: I've talked with Mr. Parks
23 about this already. Obviously to make a record and
24 preserve the objection, I'm going to have to object
25 to the You Tube video, but I'm not going to get to

1 some foundational objection.

2 JUDGE SUTHERLAND: If you make the
3 objection, state it's for the same reasons as stated
4 in your motions.

5 MR. EASTWOOD: Right.

6 JUDGE SUTHERLAND: That will be sufficient
7 to preserve for the record.

8 MR. PARKS: We have agreed that the two You
9 Tube and watch videos would not have to have
10 foundational basis.

11 MR. EASTWOOD: Correct. And I also may use,
12 I don't think I'll need to use it but obviously if I
13 have to impeach I have the Perry Smith recordings of
14 the interviews with the troopers.

15 MR. PARKS: That's fine.

16 MR. EASTWOOD: I assume that won't be
17 necessary, simply what you said.

18 JUDGE SUTHERLAND: That will not be a
19 problem. Anything else?

20 MR. PARKS: Not for the State, Your Honor.

21 MR. EASTWOOD: Not for the defense, Your
22 Honor.

23 JUDGE SUTHERLAND: I do have a couple of
24 matters. One, this is a bifurcated trial.
25 Defendant has a right to waive the second phase if

1 he wants to. Have you had an opportunity to talk to
2 your client about that?

3 MR. EASTWOOD: I have, Your Honor, and if I
4 can confer with him again just for a second.

5 JUDGE SUTHERLAND: If you wish. If he wants
6 to do that, I do have a form for that purpose, but
7 if he doesn't, that's fine. I've got all week.

8 MR. EASTWOOD: Yes, Your Honor, we would
9 request jury sentencing.

10 JUDGE SUTHERLAND: There's a matter to take
11 up with Mr. Weinhaus. Mr. Weinhaus, you probably
12 had an opportunity to discuss this with your
13 attorney but you understand that you have the right
14 either to testify or not to testify.

15 MR. WEINHAUS: Yes, sir, I'm aware of that.

16 JUDGE SUTHERLAND: The Fifth Amendment under
17 the United States Constitution you have the right to
18 not testify, and if your attorney wishes to do so he
19 can offer a jury instruction which would instruct
20 the jury that that cannot be held against you.

21 MR. WEINHAUS: Yes, sir, I'm aware of that.

22 JUDGE SUTHERLAND: I'm not asking and I'm
23 not going to ask what your conversations with your
24 attorney, he can certainly give you his advice as to
25 whether he thinks you should testify or not, but you

1 understand that it's entirely up to you, your
2 decision whether to testify or not.

3 MR. WEINHAUS: I'm aware of that, Your
4 Honor.

5 JUDGE SUTHERLAND: And also understanding
6 that you have the right to change your mind at any
7 time up to that point, can you tell me if it's your
8 intent to testify at this point?

9 MR. WEINHAUS: No, sir, I don't believe it's
10 necessary.

11 JUDGE SUTHERLAND: But you do understand you
12 have the right to change your mind?

13 MR. WEINHAUS: If it's fluid and things
14 change, you'll be the first to know.

15 JUDGE SUTHERLAND: Well, maybe the third or
16 fourth.

17 MR. EASTWOOD: I hope so.

18 MR. WEINHAUS: I won't make any outbursts, I
19 promise, I don't want to get tazed.

20 JUDGE SUTHERLAND: Let's go off the record
21 for a moment.

22 (WHEREUPON A BRIEF RECESS TOOK PLACE)

23 (WHEREUPON THE JURY PANEL ENTERED THE COURTROOM)

24 JUDGE SUTHERLAND: State of Missouri versus
25 Jeffrey R. Weinhaus for trial today. Mr. Parks, is

1 the State ready?

2 MR. PARKS: State is ready to proceed, Your
3 Honor.

4 JUDGE SUTHERLAND: Mr. Eastwood, is
5 defendant ready?

6 MR. EASTWOOD: Defense is ready to proceed,
7 Your Honor.

8 JUDGE SUTHERLAND: Ladies and gentlemen,
9 today's trial for which you have been called for
10 jury service is a criminal case. The State of
11 Missouri has charged the defendant, Jeffrey R.
12 Weinhaus, has committed the offenses of two counts
13 of possession of a controlled substance, tampering
14 with a judicial officer, two counts of assault of a
15 law enforcement officer in the first degree, two
16 counts of armed criminal action and resisting
17 arrest. The defendant has pled not guilty to the
18 charges. Those are the issues of fact which must be
19 decided by the jury, subject to instructions
20 concerning the law which the Court will give to the
21 jury. The jury is obligated to follow those
22 instructions. The trial of a criminal case begins
23 with a selection of a jury of qualified and
24 impartial people. In order to obtain such a jury,
25 all of you have been summoned as prospective jurors.

1 From your numbers, a jury will be selected to hear
2 the case. It is necessary that you be asked various
3 questions. Your answers will assist the Court in
4 determining whether it should excuse you from
5 serving in this case and will assist the attorneys
6 in making their selection of those who will hear the
7 case. The questions which will be asked of you are
8 not meant to pry into your personal affairs but
9 rather a necessary part of selecting a jury. Since
10 this is an important part of the trial, you are
11 required to be sworn before questions are asked.
12 Please rise now and be sworn to answer questions.

13 (WHEREUPON THE JURY PANEL WAS SWORN IN)

14 JUDGE SUTHERLAND: Please listen carefully
15 to all questions. Take your time in answering
16 questions. Some of the questions may require you to
17 recall experiences during your entire lifetime.
18 Therefore search your memory before answering. If
19 you do not understand the question, raise your hand
20 and say so. If later on during the examination you
21 remember something which you failed to answer before
22 or which would modify an answer you gave before,
23 raise your hand and you will be asked about it.
24 Your answers must not only be truthful but they must
25 be full and complete. If your answer to any of

1 these questions involves matters which are personal
2 or private, you may so indicate and you will be
3 given an opportunity to state your answer at the
4 bench.

5 The trial of the lawsuit involves considerable
6 time and effort, and the parties are entitled to
7 have their rights finally determined. The failure
8 on your part to fully and truthfully answer
9 questions during this stage of the trial could force
10 the parties to have to retry the lawsuit at some
11 future date. The Court will now read you an
12 instruction on the law applicable to all criminal
13 cases. The charge of any offense is not evidence,
14 and it creates no inference that any offense was
15 committed or that the defendant is guilty of an
16 offense. The defendant is presumed to be innocent
17 unless and until during your deliberations upon your
18 verdict you find him guilty. This presumption of
19 innocence places upon the State the burden of
20 proving beyond a reasonable doubt that the defendant
21 is guilty. A reasonable doubt is a doubt based upon
22 reason and common sense after careful and impartial
23 consideration of all the evidence in the case.
24 Proof beyond a reasonable doubt is proof that leaves
25 you firmly convinced of the defendant's guilt. The

1 law does not require proof that overcomes every
2 possible doubt. If, after your consideration of all
3 the evidence, you are firmly convinced that the
4 defendant is guilty of the crimes charged, you will
5 find him guilty. If you are not so convinced, you
6 must give him the benefit of the doubt and find him
7 not guilty. Is there any of you who if selected as
8 a juror could not for any reason follow that
9 instruction? If so, would you please raise your
10 hand. Thank you. I see no hands.

11 It is your duty to follow the law as the Court
12 gives it to you in the instructions even though you
13 may disagree with it. Are there any of you who
14 would not be willing to follow all instructions
15 which the Court will give to the jury? If so, would
16 you please raise your hand. Again I see no hands.
17 Thank you.

18 The State is represented here today by
19 Mr. Robert E. Parks, Prosecuting Attorney of
20 Franklin County. The defendant is represented here
21 today by Mr. Hugh A. Eastwood and Chris Combs of St.
22 Louis County. The prosecutor will question you
23 first and counsel for the defendant will question
24 you. Counsel for the State may proceed.

25 **(VOIR DIRE ON BEHALF OF THE STATE)**

1 MR. PARKS: Thank you, Your Honor. Good
2 morning ladies and gentlemen. As the Judge said, my
3 name is Robert Parks. I'm the elected Prosecuting
4 Attorney here for Franklin County. With me today is
5 Mr. Tim Hoeing, who is my investigator, and he's
6 going to help me during the voir dire and jury
7 selection process. This is the part of the trial
8 that is known as voir dire. This is where the
9 attorneys are going to ask you questions. We do not
10 mean to pry into your personal life, so if there are
11 any questions that we ask that you feel
12 uncomfortable answering in front of the whole panel,
13 please raise your hand and ask for a conference with
14 the Judge and the two attorneys out of the hearing
15 of everybody else. Can everybody hear me okay?
16 Does everyone here on the jury panel actually
17 physically live in Franklin County? We do have some
18 areas in Sullivan that go into Crawford County, some
19 places in Pacific go into a couple of counties. Is
20 there anyone here who does not actually reside in
21 Franklin County? Juror No. 7.

22 MS. FLETCHER: I am borderline St. Louis
23 County, unincorporated Franklin County.

24 MR. PARKS: Where do you pay your taxes?

25 MS. FLETCHER: In Arkansas.

1 MR. PARKS: Where is your voter
2 registration?

3 MS. FLETCHER: In Arkansas. I live
4 part-time in Arkansas but I reside part-time here in
5 St. Louis at a Pacific address.

6 MR. PARKS: Okay. Well that took me by
7 surprise because we never had anybody that didn't
8 live in Franklin County. The way that I will
9 proceed this morning is I'm going to ask questions.
10 What I'm going to do is because we have people over
11 here in the jury box, we have people over here, I'm
12 going to direct my questions to the entire panel but
13 I'm going to look to the jury box first, then I'm
14 going to kind of go down the rows. So if you're in
15 the back row and you got your hand up, I don't want
16 you sitting there for 5, 10 or 20 minutes until we
17 get to you to answer the question. So we're going
18 to be going over here and come back over here. Not
19 trying to slight those people in the back row but
20 that's the easiest way I found to do this. I'm
21 going to ask you when you answer the question to
22 please state your name or your jury badge number and
23 speak up loud enough for us to hear you. As the
24 Judge told you, the defendant in this case is
25 Mr. Jeffrey Weinhaus. Mr. Weinhaus, could you

1 please stand.

2 MR. WEINHAUS: Sure.

3 MR. PARKS: Thank you. Does anyone here
4 know Mr. Weinhaus or anyone in his family? Over
5 here in the jury box. Juror No. 44, do you know
6 Mr. Weinhaus?

7 MR. PARKER: Yes, sir.

8 MR. PARKS: Is there anything about knowing
9 him that would keep you from being fair and
10 impartial?

11 MR. PARKER: No, sir. I go to church with
12 the man.

13 MR. PARKS: Anyone else? As the Judge told
14 you, the defendant is represented by Mr. Hugh
15 Eastwood and Mr. Chris Combs. Does anyone here know
16 Mr. Eastwood or Mr. Combs? I see no hands. Thank
17 you. With me today is, like I said, Mr. Tim Hoeing,
18 who is my investigator. Does anybody know Tim? I
19 see no hands. Thank you.

20 This trial is scheduled for three days. If
21 there is anyone here that was selected for this
22 trial -- is there anyone who could not serve three
23 days on the jury panel for any reason, anybody
24 scheduled for a vacation, have a sick kid at home,
25 going to have surgery, anything like that, anybody

1 in the jury box

2 MR. CLICK: Would that be the next three
3 days or in the near future?

4 MR. PARKS: It will be over by Thursday hell
5 or high water. The Judge already said we would.

6 MR. CLICK: So we're fine.

7 MR. PARKS: Anybody in the first row.

8 MR. HASLAG: Early in the afternoon on
9 Thursday I have a doctor's appointment that I waited
10 for for three weeks, and I would prefer not to miss
11 that.

12 MR. PARKS: If you were selected and it
13 would go on, can you reschedule that if need be?

14 MR. HASLAG: If I had to, yes, I could
15 but --

16 MR. PARKS: Juror No. 23.

17 MR. GREGG: I have a son sick at home.

18 MR. PARKS: Are you the only caregiver for
19 that son?

20 MR. GREGG: Right now, yes. He's got a
21 doctor's appointment tomorrow.

22 MR. PARKS: If you were on the panel, is
23 there anyone else who could take him to that
24 doctor's appointment?

25 MR. GREGG: I suppose.

1 MR. PARKS: Juror 34.

2 MS. NOWLIN: I have to be at the doctor on
3 Wednesday. I had surgery last week and I have to go
4 get my stitches out on Wednesday.

5 MR. PARKS: Tomorrow?

6 MS. NOWLIN: Yeah.

7 MR. PARKS: If for some reason you made it
8 on the panel, could you please put that off til
9 Friday?

10 MS. NOWLIN: I could call and ask, I don't
11 know.

12 MR. PARKS: Let me ask you this. If you did
13 make the panel, are you going to be worried about
14 that, is that going to keep you from listening to
15 the evidence and everything here?

16 MS. NOWLIN: No.

17 MR. PARKS: But you'd prefer not to if we
18 can get by. Anyone else in this row. In the next
19 row and the back row. The State is going to be
20 calling several witnesses. One of the witnesses
21 we're going to be calling is Sergeant James Folsom
22 from the Missouri State Highway Patrol. Sergeant
23 Folsom, could you please stand. Thank you. Does
24 anyone here know Sergeant Folsom?

25 Another witness that the State is going to be

1 calling is Corporal Scott Mertens from the Missouri
2 State Highway Patrol. Corporal Mertens, could you
3 stand up. Does anyone recognize Corporal Mertens?
4 Thank you.

5 The State plans to call Sergeant Perry Smith
6 from the Missouri State Highway Patrol. He is not
7 here this morning. Does anyone know Sergeant Smith
8 from Troop C?

9 The State plans on calling Corporal Jeffrey
10 White, who is a firearms instructor with the Highway
11 Patrol out of Jefferson City. Does anyone here know
12 of Corporal White?

13 And the State intends to call Mr. Matt Fox, who
14 is a criminalist out of the Missouri State Highway
15 Patrol Crime Lab. Is anyone familiar with Mr. Fox?

16 Now as you can see, this case from the State is
17 going to call into question a lot of law enforcement
18 officers. Is there anyone here who is themselves,
19 has a family member, a close personal friend or
20 anyone who is in law enforcement?

21 MS. SENSENBRENNER: I have friends in law
22 enforcement in California.

23 MR. PARKS: But nobody here in Missouri or
24 in Franklin County?

25 MS. SENSENBRENNER: No.

1 MR. PARKS: Is there anything about having
2 friends in law enforcement that would keep you from
3 listening to the evidence today and rendering a fair
4 and impartial verdict?

5 MS. SENSENBRENNER: No.

6 MR. PARKS: Juror No. 13, Mrs. Hoffman.

7 MS. HOFFMANN: My sister's grandson is in
8 south county, I don't know.

9 MR. PARKS: He's a law enforcement officer
10 in St. Louis county?

11 MS. HOFFMANN: Yeah.

12 MR. PARKS: Do you know anybody from
13 Franklin County, anybody from the Highway Patrol?

14 MS. HOFFMANN: No.

15 MR. PARKS: Is there anything that would
16 keep you from listening to the evidence here today
17 and rendering a fair and impartial verdict?

18 MS. HOFFMANN: No.

19 MR. PARKS: Anyone in the first row here.
20 Juror No. 25, Ms. Stack.

21 MS. STACK: I have a cousin that works at
22 the Rolla Police Department.

23 MR. PARKS: Nobody, though, that works in
24 Franklin County?

25 MS. STACK: No.

1 MR. PARKS: Is there anything about your
2 association with your cousin or anything that would
3 keep you from rendering a fair and impartial verdict
4 here today?

5 MS. STACK: No.

6 MR. PARKS: That was a no?

7 MS. STACK: No.

8 MR. PARKS: You need to speak up because the
9 court reporter has to take down everything and
10 that's the last person in the room that we want to
11 make mad this morning, so keep your voices up. No.
12 22?

13 MR. HASLAG: My niece's husband, which we
14 are also neighbors, is a law enforcement officer in
15 St. Clair.

16 MR. PARKS: In St. Clair?

17 MR. HASLAG: Yes, sir.

18 MR. PARKS: Is there anything about that
19 that would keep you from being fair and impartial
20 here today?

21 MR. HASLAG: I will try my best to be fair
22 and impartial.

23 MR. PARKS: Yes or no, can you be impartial?

24 MR. HASLAG: I believe I can. I think I
25 can, yes.

1 MR. PARKS: The next row, No. 27.

2 MS. PIERCE: I know Monte Delmaine, who is a
3 state patrol officer, a friend of ours.

4 MR. PARKS: You haven't discussed that case
5 with him?

6 MS. PIERCE: No.

7 MR. PARKS: Is there anything about knowing
8 Trooper Delmaine that would keep you from being fair
9 and impartial here today?

10 MS. PIERCE: No.

11 MR. PARKS: Anyone else.

12 MR. DZIEJMA: I'm currently law enforcement
13 in Franklin County.

14 MR. PARKS: You didn't work on this case?

15 MR. DZIEJMA: Did not.

16 MR. PARKS: Do you have any personal
17 knowledge from working on the case?

18 MR. DZIEJMA: No.

19 MR. PARKS: Could you, as a law enforcement
20 officer, set that aside, listen to the evidence and
21 make a fair and impartial verdict based only on the
22 evidence that you hear today?

23 MR. DZIEJMA: I believe so.

24 MR. PARKS: Yes or no?

25 MR. DZIEJMA: Yes.

1 MR. PARKS: No. 31, Mr. Brendel.

2 MR. BRENDDEL: I know several people that
3 work for the Sheriff's Department and one for the
4 State.

5 MR. PARKS: Have you discussed this case
6 with any one of them?

7 MR. BRENDDEL: No.

8 MR. PARKS: Is there anything about that
9 that would keep you from being fair and impartial
10 here today?

11 MR. BRENDDEL: No.

12 MR. PARKS: Anyone else in this row. The
13 next row, No. 38, Mrs. Scheer.

14 MS. SCHEER: My cousin works for the
15 Sheriff's Department.

16 MR. PARKS: Have you talked to him about
17 this case?

18 MS. SCHEER: No.

19 MR. PARKS: Is there anything about that
20 that would keep you from listening to the evidence
21 here today and rendering a fair and impartial
22 verdict based only upon the evidence?

23 MS. SCHEER: No.

24 MR. PARKS: Anyone else in the row. No. 41.

25 MS. WALKER: I have church family that are

1 law enforcement in Franklin County.

2 MR. PARKS: Is there anything about that,
3 have you discussed this case with any of them.

4 MS. WALKER: No, sir.

5 MR. PARKS: Is there anything about your
6 circle of friends that include law enforcement that
7 would keep you from being fair and impartial here
8 today?

9 MS. WALKER: No, sir.

10 MR. PARKS: Thank you. No. 42, Mr. Kriete.

11 MR. KRIETE: I know Sheriff's Deputy Paul
12 McCluer.

13 MR. PARKS: Have you discussed this case
14 with him or is there anything about that
15 relationship that would keep you from being fair and
16 impartial here today?

17 MR. KRIETE: No, sir.

18 MR. PARKS: Anyone else? No. 44,
19 Mr. Parker.

20 MR. PARKER: My nephew is a sheriff's deputy
21 in this county.

22 MR. PARKS: Is there anything about that
23 that would keep you from being fair and impartial?

24 MR. PARKER: No.

25 MR. PARKS: Anyone in the last row, No. 48,

1 Mr. Wilmsmeyer.

2 MR. WILMSMEYER: I'm currently in law
3 enforcement and I know several people in law
4 enforcement.

5 MR. PARKS: Is there anything about you
6 being in law enforcement that would keep you from
7 being fair and impartial?

8 MR. WILMSMEYER: No.

9 MR. PARKS: Could you listen to the evidence
10 today and render a fair and impartial verdict based
11 only upon that testimony and not your involvement in
12 law enforcement?

13 MR. WILMSMEYER: Yes.

14 MR. PARKS: No. 16, Ms. Davis.

15 MS. DAVIS: I also know a couple of people
16 in law enforcement in Franklin County.

17 MR. PARKS: Have you discussed this case in
18 any way?

19 MS. DAVIS: No.

20 MR. PARKS: Is there anything about knowing
21 them that would keep you from rendering a fair and
22 impartial verdict?

23 MS. DAVIS: No.

24 MR. PARKS: No. 18, Ms. Bates.

25 MS. BATES: I'm friends with the police

1 chief in Pacific, but I have not discussed anything
2 with him and I could be fair and impartial.

3 MR. PARKS: Thank you very much.

4 MR. CLICK: Being a long-time resident, I
5 know a number of officers here in town. We don't
6 know them real well but we do know a number of
7 people.

8 MR. PARKS: You're Mr. Click?

9 MR. CLICK: Yes.

10 MR. PARKS: Is there anything about knowing
11 these people that would keep you from being fair and
12 impartial?

13 MR. CLICK: No.

14 MR. PARKS: Thank you. I'm going to turn
15 that question around just a little. Is there anyone
16 here who has ever come into contact with law
17 enforcement, either been a suspect or accused of a
18 crime by law enforcement or has been a victim of a
19 crime and come into contact with law enforcement,
20 and I'm talking about anything here. No. 8.

21 MS. SIEVE: I had to call the police for
22 domestic violence in St. Louis six years ago.

23 MR. PARKS: Was there anything about that
24 contact with law enforcement that left a bad taste
25 in your mouth against law enforcement that you could

1 not listen to officers on the stand and be fair and
2 impartial?

3 MS. SIEVE: No.

4 MS. LAUBINGER: I've been arrested before.

5 MR. PARKS: Anything about that with the
6 officers --

7 MS. LAUBINGER: No.

8 MR. PARKS: That you're not going to be
9 fair?

10 MS. LAUBINGER: I'd be fair.

11 MR. PARKS: You'd listen to them and give
12 them the benefit as you would anyone else?

13 MS. LAUBINGER: Yeah.

14 MR. PARKS: Nothing about that incident that
15 left a bad taste in your mouth against law
16 enforcement?

17 MS. LAUBINGER: No.

18 MR. PARKS: No. 6.

19 MS. BUHR: A DWI, was arrested for DWI once
20 a long time ago.

21 MR. PARKS: Has that been taken care of?

22 MS. BUHR: It was years and years ago.

23 MR. PARKS: Is there anything about that
24 arrest with the police officers, the court system,
25 anything that left a bad taste in your mouth that

1 you would not be fair and impartial here today?

2 JUDGE SUTHERLAND: I can be fair and
3 impartial.

4 MR. PARKS: No. 11, Mr. Strassner.

5 MR. STRASSNER: I'm assuming you're not
6 including things like traffic violations, that sort
7 of thing. Because yeah, I had a speeding ticket
8 when I was 16.

9 MR. PARKS: And you're 17 now so. Anything
10 about that --

11 MR. STRASSNER: No, sir.

12 MR. PARKS: -- dealing with the contact of
13 law enforcement that would keep you from treating
14 them just like you would any other witness?

15 MR. STRASSNER: No, sir.

16 MR. PARKS: No. 12, Ms. Terschluse.

17 MS. TERSCHLUSE: I know law enforcement, in
18 fact she's your daughter Meg, and my grandson was
19 involved in a drug deal with law enforcement.

20 MR. PARKS: Is there anything about that
21 contact or knowing these people that would taint you
22 against law enforcement to where you could not
23 listen fairly to their testimony and give a fair and
24 accurate or fair and impartial verdict to the
25 defendant?

1 MS. TERSCHLUSE: I think I could give a fair
2 verdict because they treated them right, my grandson
3 right, so I'm sure they'd be fair.

4 MR. PARKS: So you could be fair and
5 impartial?

6 MS. TERSCHLUSE: Sure.

7 MR. PARKS: No. 10, Sensenbrenner.

8 MS. SENSENBRENNER: Are you asking in our
9 lifetime if we had any contact being pulled over?

10 MR. PARKS: Any contacts you might have had
11 with law enforcement where you don't think the
12 officer treated you fair, where it left a bad taste
13 against officers. If law enforcement officers get
14 up here to testify, are you going to automatically
15 disregard what they said because of your experience
16 with them.

17 MS. SENSENBRENNER: I understand, thank you.

18 MR. PARKS: Are you okay?

19 MS. SENSENBRENNER: Yes, thank you.

20 MR. PARKS: No. 19.

21 MR. HATCHER: I had a DWI about three years
22 ago.

23 MR. PARKS: Is that disposed of?

24 MR. HATCHER: Yes, all over with.

25 MR. PARKS: Is there anything about the way

1 the arresting officer handled that that would keep
2 you from being fair and impartial to the testimony
3 of a law enforcement officer?

4 MR. HATCHER: No, the only thing I didn't
5 like was to be kept 24 hours when nobody knew where
6 I was at, but I had no problem with them.

7 MR. PARKS: So you could be fair and
8 impartial?

9 MR. HATCHER: Yes.

10 MR. PARKS: And that incident would not keep
11 you from believing the law enforcement officers that
12 talk or testify here today.

13 MR. HATCHER: No.

14 MR. PARKS: No. 18.

15 MS. BATES: Several years ago I was involved
16 in an embezzlement case, and I worked along side the
17 officers to help solve that.

18 MR. PARKS: Is there anything about that
19 that left a bad taste in your mouth that would keep
20 you from automatically not believing what a law
21 enforcement officer said?

22 MS. BATES: No.

23 MR. PARKS: Anyone else in the next row
24 there. In the third row, yes, No. 32.

25 MR. DEBONNAIRE: You're speaking of things

1 in general that I've done for the law or against?

2 MR. PARKS: Have you been a victim of a
3 crime or law enforcement came --

4 MR. DEBONNAIRE: No, no. Just so your
5 investigator understands, I have a nephew who I had
6 to turn in because of crack, and he's out of prison
7 now, clean and sober and he's got a business, and
8 I'd rather not mention his name. He's not dirty
9 anymore.

10 MR. PARKS: Great, that's what we want.

11 MR. DEBONNAIRE: I don't see him.

12 MR. PARKS: Is there anything about that
13 incident that left a bad taste --

14 MR. DEBONNAIRE: No, I did what was right,
15 he came to my house and --

16 MR. PARKS: We don't want to go into details
17 but is there anything about that, the way law
18 enforcement handled that case that left a bad taste
19 in your mouth?

20 MR. DEBONNAIRE: No, they cleaned him up and
21 he's now good.

22 MR. PARKS: Anyone in the next row. Yes,
23 No. 41.

24 MS. WALKER: My daughter was a rape victim.
25 I had no problem with the way the police handled it.

1 MR. PARKS: And you could listen to police
2 officers testify and be fair and impartial?

3 MS. WALKER: Yes.

4 MR. PARKS: Another.

5 MR. PARKER: I had eight felonies since I
6 was 15 and misdemeanors.

7 MR. PARKS: Thank you very much.

8 MR. ROACH: I've been arrested.

9 MR. PARKS: Is there anything about that
10 arrest that left a bad taste in your mouth with the
11 law enforcement or the court system?

12 MR. ROACH: No.

13 MR. PARKS: Could you listen to law
14 enforcement officers testify and treat them the same
15 as anybody else and be fair and impartial.

16 MR. ROACH: Absolutely, yes.

17 MR. PARKS: Anyone else in this row. I
18 believe the evidence in this case will show that on
19 September 11th, 2012 that the defendant arrived at
20 the MFA gas station on Highway K here in Franklin
21 County. Defendant was wearing a holstered pistol on
22 his side. He was confronted by Sergeant Folsom and
23 Corporal Mertens. He attempted to draw his pistol
24 and was shot by the Highway Patrol. Is there anyone
25 here that believes that the defendant's pistol

1 should have cleared the holster before the law
2 enforcement officer shot? Anyone in the jury box?
3 Anyone back here? I see no hands.

4 Does anyone here believe that the law
5 enforcement officers should have waited for the
6 defendant to shoot at them and then returned his
7 fire before they shot him? Anyone in the jury box?
8 Anyone back here?

9 MR. WHITE: I have a question on your
10 question before. Did you say he was pulling his gun
11 out of his holster but didn't clear the holster?

12 MR. PARKS: Yes, do you have any problems
13 with that?

14 MR. WHITE: No.

15 MR. PARKS: Anybody here on the second
16 question that believes the defendant should have
17 fired at the troopers before they returned fire?

18 MR. EASTWOOD: I'm going to ask the Court to
19 instruct the jury pool that Mr. Parks' statements
20 are not evidence, they're hypotheticals.

21 MR. PARKS: These are hypothetical questions
22 I'm asking, this is not evidence.

23 JUDGE SUTHERLAND: That's sufficient, go
24 ahead.

25 MR. PARKS: Does everyone here in the jury

1 pool agree with the proposition that in Missouri you
2 have the right to openly carry a weapon, not talking
3 about carry and conceal but does everybody agree
4 with the proposition that you may at any time wear a
5 handgun on your hip as long as it's not concealed.
6 Does everyone agree with that proposition.

7 MS. DAYTON: No, I think you should have a
8 carry and conceal.

9 MR. PARKS: A carry and concealed permit
10 means that you are allowed to carry a weapon on your
11 hand and have a coat over it or have it in your
12 pocket. That you have to go through special
13 practice and training, but in the State of Missouri
14 you can slap a six gun on your hip and walk around
15 all day, that's the law. Is there anyone here that
16 does not believe that that is the law.

17 MS. QUENNOZ: That you don't believe it or
18 that you don't believe in the law?

19 MR. PARKS: I'm not asking you if you
20 believe in the law. I'm only asking you if you
21 agree that that is what the law is. I don't care
22 whether you agree or not with it, that's irrelevant.
23 I just want to know do you understand that you're
24 allowed to that?

25 MS. QUENNOZ: I don't believe that's the

1 law, what you're asking.

2 MR. PARKS: If I told you that was the law,
3 would you believe that?

4 MS. QUENNOZ: Well, I would hope you would
5 tell me the law.

6 MR. PARKS: Well that is, so everybody
7 understands now that you can carry a weapon, you can
8 strap a two gun set on your hips if you want to as
9 long as you don't have a coat over it. As long as
10 the gun is out in plain view, you're allowed to
11 carry.

12 JUDGE SUTHERLAND: It's not going to get you
13 very far inside the courthouse or airport but that's
14 another issue.

15 MR. PARKS: Nothing there. Does everyone
16 agree with the proposition, though, whether you
17 carry open or you carry concealed that once that
18 weapon is drawn, a whole other set of laws take
19 effect. You can -- you have the right to carry but
20 you do not have the right to draw, except in
21 specific circumstances. Does everybody agree with
22 that proposition? Everybody agree with it in the
23 jury box. Everybody agree with it out here. Does
24 everyone here agree with the proposition that you
25 have a constitutional right to criticize your

1 elected officials. Anybody here that thinks you
2 can't? Anybody in the jury box. Anybody out here
3 think that you do not have a constitutional right to
4 criticize your elected officials.

5 Does everyone here agree with the proposition
6 that you do not have a constitutional right to
7 threaten to kill or harm your elected officials.
8 Everybody agree with that proposition here in the
9 jury box. Everybody agree with that out here. You
10 may criticize but you may not kill or harm,
11 everybody agree with that.

12 Now the Court has told you that the defendant
13 is charged with eight crimes. This case will
14 proceed in two stages, the first stage we call the
15 guilt phase, and if you are on the jury panel, the
16 first thing that you must decide after hearing the
17 evidence is whether or not the defendant is guilty
18 of each or one or all eight of the charges. Each
19 one is to be considered separately. Each one is to
20 be found beyond a reasonable doubt by you as guilt.
21 If you find a guilty verdict on any of the charges,
22 one, all eight, six, five, whatever, if you find a
23 guilty verdict, then we will do what is called the
24 penalty phase in which you will be asked to render a
25 penalty for each count. The first count is

1 tampering with a judicial official, which is a Class
2 C felony. That charge has a range of punishment of
3 from one day to one year in the county jail or two
4 years to seven years in the Department of
5 Corrections and/or a fine of up to \$5,000.00, which
6 would be assessed by the Court. So you could find
7 him on that count guilty and sentence him to one day
8 to a year in county jail, you could sentence him
9 from two years to seven years in the Department of
10 Corrections, and on either one of those you could or
11 could not ask the Judge to assess a fine. Is there
12 anyone here that if they had found the defendant
13 guilty of that charge would not consider the entire
14 range of punishment? In other words if you say
15 well, he's guilty of that, all I'll consider is the
16 jail time. I won't consider the prison time. Is
17 there anyone here that won't consider the entire
18 range? I see no hands in the jury box. I see no
19 hands with the rest of the panel.

20 The defendant is charged with possession of a
21 controlled substance, Morphine in Count 2, again the
22 same range of punishment as to Count 1, one day to
23 12 months in the county jail or two years to seven
24 years in a Department of Corrections or a fine. If
25 you found the defendant guilty of that charge, is

1 there anyone here who could not consider that entire
2 range of punishment. Anyone in the jury box.
3 Anyone out here.

4 The third count is possession of a controlled
5 substance, marijuana, a misdemeanor amount of
6 marijuana. That is a Class A misdemeanor where the
7 penalty is one day to 12 months in the Department of
8 Corrections and -- let me start over, I'm sorry.
9 One day to 12 months in the county jail. There is
10 no prison time on a misdemeanor and/or a fine of up
11 to \$1,000.00. If you convicted the defendant of a
12 possession of marijuana, is there anyone here who
13 could not consider that entire range of punishment?
14 Anyone in the jury box.

15 MR. GREGG: I couldn't consider that entire
16 range. I don't believe it should be illegal. I
17 wouldn't be able to consider a punishment, so. I
18 don't think it should be illegal.

19 MR. PARKS: The Judge asked you when he read
20 the instructions and asked you if you could consider
21 the instructions, whether you agree with them or
22 not, if I prove the elements of possession of
23 marijuana and you think I've proved it beyond a
24 reasonable doubt, whether you believe in that charge
25 or not, could you render a guilty verdict?

1 MR. GREGG: I don't think I could.

2 MR. PARKS: Is there anyone else here that
3 could not consider the full range of punishment on a
4 misdemeanor marijuana charge.

5 The defendant is charged with two counts of
6 assault of a law enforcement officer, the first
7 being on Sergeant Folsom, the second charge being on
8 Corporal Mertens. These are Class A felonies. The
9 range of punishment for a Class A felony is minimum
10 of 10 years, a maximum of 30 years or life in the
11 Department of Corrections. If you found the
12 defendant guilty of the charges of assault of a law
13 enforcement officer, could you consider the entire
14 range of punishment. Anyone in the jury box who
15 could not consider the entire range of punishment.
16 Anyone back here on a Class A felony 10 years to 30
17 years or life in the Missouri Department of
18 Corrections could not consider that entire range of
19 punishment. I see no hands.

20 The defendant is also charged with two counts
21 of armed criminal action, which means he used, in
22 this case, he used a weapon to commit the assault of
23 a law enforcement officer. The range of punishment
24 on an armed criminal action is a minimum of three
25 years up to whatever you want to give him. Is there

1 anyone here in the jury box that could not consider
2 the entire range of punishment in their deliberation
3 on armed criminal action. Anyone back here.

4 The last charge is resisting arrest, that is a
5 Class D felony. The range of punishment for
6 resisting arrest is one day to 12 months in the
7 Franklin County jail or two years to four years in
8 the Missouri Department of Corrections and/or a fine
9 of up to \$5,000.00. Is there anyone here who could
10 not consider the entire range of punishment on
11 resisting arrest. Anyone in the jury box. Anyone
12 back here.

13 Has anyone here ever served on a jury panel or
14 been on a jury before, and I don't care whether it
15 was criminal or civil, whether it was in Franklin
16 County, State case or a Federal case. Anybody here.
17 We'll start over here, you all put your hands down
18 and we'll come back. Anybody in the first row.
19 Juror No. 9.

20 MS. DUBUQUE: I was on Grand jury.

21 MR. PARKS: Here in Franklin County?

22 MS. DUBUQUE: Yes.

23 MR. PARKS: How long ago has that been?

24 MS. DUBUQUE: Two years at least.

25 MR. PARKS: You never heard anything about

1 this?

2 MS. DUBUQUE: No.

3 MR. PARKS: Is there anything about that
4 that would keep you from being fair and impartial
5 here today?

6 MS. DUBUQUE: No, not at all.

7 MR. PARKS: Juror No. 11.

8 MR. STRASSNER: I was an alternate juror on
9 a recent civil case.

10 MR. PARKS: Here?

11 MR. STRASSNER: Yes.

12 MR. PARKS: But you never got to
13 deliberation?

14 MR. STRASSNER: I didn't get to deliberate.

15 MR. PARKS: You realize that's a civil case.
16 In a civil case you do not have to have a unanimous
17 verdict. You understand you do in a criminal case?

18 MR. STRASSNER: I understand.

19 MR. PARKS: No. 12.

20 MS. TERSCHLUSE: I was on the same civil
21 case as he was.

22 MR. PARKS: Did you make the jury panel?

23 MS. TERSCHLUSE: Yes.

24 MR. PARKS: You sat for the deliberations?

25 MS. TERSCHLUSE: Yes.

1 MR. PARKS: Is there anything about that
2 that would keep you from sitting on this jury and
3 rendering a fair and impartial verdict?

4 JUDGE SUTHERLAND: I don't think so.

5 MR. PARKS: Did you all reach the verdict?

6 MS. TERSCHLUSE: Yes.

7 MR. PARKS: Were you the foreman of that
8 jury?

9 MS. TERSCHLUSE: No.

10 MR. PARKS: No. 15.

11 MS. DAYTON: I've been called several times
12 and I have served two or three times, it's been many
13 years but I have served several times, once on a
14 criminal.

15 MR. PARKS: Was that in Franklin County?

16 MS. DAYTON: No.

17 MR. PARKS: Is there anything about that
18 jury service that would keep you from being fair and
19 impartial if you were picked for this jury and
20 serving on this jury?

21 MS. DAYTON: No.

22 MR. PARKS: Did you reach a verdict in the
23 case?

24 MS. DAYTON: Yes.

25 MR. PARKS: Were you the foreman of any of

1 those jury panels?

2 MS. DAYTON: No.

3 MR. PARKS: No. 21.

4 MS. PIOTRASCHKE: I was on the same one as
5 them.

6 MR. PARKS: Were you on the jury panel or --
7 were you picked for the jury?

8 MS. PIOTRASCHKE: No, I was picked, I was on
9 the jury.

10 MR. PARKS: And you all reached a verdict?

11 MS. PIOTRASCHKE: Yes.

12 MR. PARKS: Were you the foreman?

13 MS. PIOTRASCHKE: No.

14 MR. PARKS: And realizing this is a criminal
15 trial, not a civil, in a criminal trial -- let me
16 rephrase. Is there anyone here that does not
17 realize that in a criminal trial all 12 members must
18 agree to whatever their verdict is, there's no
19 getting nine. All 12 people have to agree,
20 everybody understand that. Anyone in the next row,
21 No. 25.

22 MS. STACK: I was in the civil case a few
23 months ago.

24 MR. PARKS: Was there anything about that
25 jury service that would keep you from serving on

1 this jury and being fair and impartial?

2 MS. STACK: No.

3 MR. PARKS: Were you actually on the jury
4 panel?

5 MS. STACK: No.

6 MR. PARKS: So you never got to the trial?

7 MS. STACK: No.

8 MR. PARKS: No. 23.

9 MR. GREGG: I was on the same civil case.

10 MR. PARKS: Was there anything about that
11 service that would keep you from being fair and
12 impartial here today?

13 MR. GREGG: No.

14 MR. PARKS: Anyone else in this row. The
15 next row, No. 30.

16 MR. DZIEJMA: I served on a civil case 10
17 years ago.

18 MR. PARKS: In Franklin County?

19 MR. DZIEJMA: Yes.

20 MR. PARKS: Were you on the jury panel?

21 MR. DZIEJMA: Yes.

22 MR. PARKS: Did you all reach a verdict?

23 MR. DZIEJMA: Yes, sir.

24 MR. PARKS: Were you the foreman?

25 MR. DZIEJMA: No.

1 MR. PARKS: Is there anything about that
2 that would keep you from being fair and impartial?

3 MR. DZIEJMA: No.

4 MR. PARKS: Mr. Brendel.

5 MR. BRENDDEL: Franklin County, it was a
6 malpractice suit in Franklin County.

7 MR. PARKS: How long ago was that?

8 MR. BRENDDEL: Seven years ago, I was on the
9 jury and I was not a foreman.

10 MR. PARKS: Did you all reach a verdict?

11 MR. BRENDDEL: Yes.

12 MR. PARKS: Is there anything about that
13 that would keep you from rendering a fair and
14 impartial verdict?

15 MR. BRENDDEL: No.

16 MR. PARKS: Anyone else in this row. Anyone
17 in the next row. No. 46.

18 MR. HAYS: I was on a Federal Grand jury in
19 the late '70s.

20 MR. PARKS: Anything about that Grand jury
21 service that would keep you from being fair and in
22 partial here today?

23 MR. HAYS: No.

24 MR. PARKS: Anyone else in this row.

25 MS. RAGAN: I was called to serve but never

1 selected.

2 MR. PARKS: Here in Franklin County?

3 MS. RAGAN: Yes.

4 MR. PARKS: Thank you very much. Now the
5 next line of questioning is a little more personal.
6 So if you would feel uncomfortable answering these
7 questions in front of the entire jury panel, just
8 please let me know and we'll have a private
9 conversation with the Judge when we're done with the
10 voir dire. But has anyone here on the jury panel
11 ever been charged with or convicted of a crime you
12 yourself.

13 MS. FLETCHER: A felony charge 17 years ago.
14 I feel uncomfortable talking about it.

15 MR. PARKS: Judge, could we have a
16 conference with No. 7 please.

17 MS. LAUBINGER: I've had a DWI and I think I
18 mentioned that already.

19 MR. PARKS: But was there anything about
20 that DWI, the way it was handled, the outcome or
21 anything that would keep you from being fair and
22 impartial here today?

23 MS. LAUBINGER: No.

24 MR. PARKS: Anyone else, same thing and we
25 discussed that with juror No. 6.

1 MS. BUHR: Yeah.

2 MR. PARKS: No. 22.

3 MR. HASLAG: Approximately 10 years ago I
4 also had a DUI.

5 MR. PARKS: Was there anything about that
6 that left a bad taste in your mouth or would keep
7 you from being fair and impartial?

8 MR. HASLAG: No.

9 MR. PARKS: Anything about the way the
10 officers treated you at the scene that you don't
11 think was fair or just?

12 MR. HASLAG: No, sir.

13 MR. PARKS: Anyone in the second row.
14 Anyone in the third row.

15 MS. NOWLIN: I was arrested and charged with
16 two felonies.

17 MR. PARKS: Is there anything about that?

18 MS. NOWLIN: No.

19 MR. PARKS: Anyone else, 44.

20 MR. PARKER: I've been charged with eight
21 felonies.

22 MR. PARKS: Anybody in the last row, 47.

23 MR. ROACH: DUI.

24 MR. PARKS: How long ago was that?

25 MR. ROACH: 2002.

1 MR. PARKS: That's all been disposed of?

2 MR. ROACH: Yes.

3 MR. PARKS: Was there anything about that,
4 the way anyone treated you that you feel you could
5 not be fair and impartial here today?

6 MR. ROACH: No.

7 MR. PARKS: Anyone else. Okay, I'm going to
8 turn that around just a little bit but has a family
9 member or a close personal friend that you know, and
10 I'm not talking about well the guy down at the end
11 of the block got arrested at one time, I'm talking
12 about somebody you know and have contact with. Have
13 they ever been charged with or convicted of a crime,
14 close family member or a close personal friend.

15 MS. DUBUQUE: How recent do you want to go?

16 MR. PARKS: If it's going to bother you,
17 then I'd like to know about it. No. 8.

18 MS. SIEVE: Unfortunately my daughter is
19 going to be charged with drug possession, and if I
20 have an attitude with anybody, it's with my
21 daughter.

22 MR. PARKS: Is that being handled by my
23 office.

24 MS. SIEVE: She's 20, I don't know all the
25 details.

1 MR. PARKS: Was she arrested in Franklin
2 County?

3 MS. SIEVE: Yes.

4 MR. PARKS: Was she charged in Franklin
5 County through a municipality or State court?

6 MS. SIEVE: I don't know.

7 MR. PARKS: Is there anything about the way
8 that she is being treated --

9 MS. SIEVE: No, it's been exceedingly fair.

10 MR. PARKS: So you could be fair and
11 impartial here today?

12 MS. SIEVE: Yes.

13 MR. PARKS: No. 9.

14 MS. DUBUQUE: I had a son with a Class D
15 felony about 20 years ago.

16 MR. PARKS: Anything about the way that was
17 handled?

18 MS. DUBUQUE: No, same way, very fair and he
19 got to go on probation, so they treated him right.

20 MR. PARKS: So you could be fair and
21 impartial, listen to the testimony, render a verdict
22 based only on that, not about your son's prior
23 convictions.

24 MS. DUBUQUE: Yes.

25 MS. TERSCHLUSE: I have a grandson that

1 right now he's in drug treatment and he will be in
2 drug court here when he's released in two weeks.

3 MR. PARKS: Is there anything about the way
4 the police, the courts, the prosecutors, his defense
5 attorney has handled that case that has left a bad
6 taste in your mouth so where you could not render a
7 fair and impartial verdict if you were picked for
8 this jury?

9 MS. TERSCHLUSE: No, because I feel he was
10 treated fairly.

11 MR. PARKS: That's good enough. Anyone else
12 in the back row. Juror No. 2.

13 MR. CLICK: I have cousins, aunts and uncles
14 that all had severe altercations.

15 MR. PARKS: Is there anything about those
16 altercations, the way they were treated by the
17 police, the court system, the prosecutors, their own
18 defense attorneys, anything there that has left a
19 bad taste in your mouth against the legal system?

20 MR. CLICK: Most of it was well deserved but
21 one of the uncles resisted arrest and they beat him
22 so bad I couldn't recognize him the next day. So at
23 that time it was pretty hard to handle that, to be
24 quite honest.

25 MR. PARKS: Have you been able to resolve

1 that and set that aside?

2 MR. CLICK: I understand them fighting with
3 him. I can be impartial still but I have to admit
4 it was hard at that time.

5 MR. PARKS: This case involves the charge of
6 resisting arrest. Could you listen to the facts of
7 the case and render a verdict, putting aside all the
8 family history, and render a verdict based only on
9 the evidence you hear here today?

10 MR. CLICK: I think so.

11 MR. PARKS: Anyone else?

12 MS. BUHR: My brother is in prison.

13 MR. PARKS: Did those charges arise out of
14 Franklin County?

15 MS. BUHR: Yes.

16 MR. PARKS: Was there anything about the way
17 the police treated that, the courts, the prosecutor,
18 defense attorney that you did not think was right?

19 MS. BUHR: No.

20 MR. PARKS: Could you listen to the evidence
21 here today, be fair and impartial?

22 MS. BUHR: Yes.

23 MR. PARKS: Anyone here in the first row.
24 Ms. Davis.

25 MS. DAVIS: I have a brother that was in

1 prison.

2 MR. PARKS: Did those charges arise out of
3 Franklin County?

4 MS. DAVIS: I don't know for sure.

5 MR. PARKS: Was there anything about the way
6 he was treated by police, by the courts, by the
7 prosecutor, by his own defense attorneys that left a
8 bad taste in your mouth?

9 MS. DAVIS: No.

10 MR. PARKS: If you were picked for the jury,
11 could you listen to the evidence today, setting
12 everything aside about your brother and reach a fair
13 and impartial verdict?

14 MS. DAVIS: Yes.

15 MR. PARKS: No.

16 MS. RUTHERFORD: My brother has been in
17 prison, not in Franklin County.

18 MR. PARKS: Is there anything about his
19 arrest --

20 MS. RUTHERFORD: No.

21 MR. PARKS: -- that left a bad taste in your
22 mouth?

23 MS. RUTHERFORD: No.

24 MR. PARKS: If you were picked for the jury,
25 could you set that aside and render a verdict based

1 only on the testimony you heard here today.

2 MS. RUTHERFORD: Yes.

3 MR. PARKS: Anyone else. No. 18.

4 MS. BATES: I'd like to speak privately.

5 MR. PARKS: No. 18, Ms. Bates, would like a
6 conference with the Court, Your Honor. No. 19, Mr.
7 Hatcher.

8 MR. HATCHER: A couple years back, I own a
9 lawn business and I was cutting this residence, my
10 wife was there.

11 MR. PARKS: We don't want to go into a lot
12 of details.

13 MR. HATCHER: Anyway, she was taken to the
14 police station in Washington, Missouri.

15 MR. PARKS: Did you think that she was
16 unfairly arrested?

17 MR. HATCHER: No.

18 MR. PARKS: Is there anything about the way
19 the police treated your wife, you, that left a bad
20 taste in your mouth that you could not be fair and
21 impartial?

22 MR. HATCHER: I just wish I knew more about
23 it and kept in the know.

24 MR. PARKS: But could you be fair and
25 impartial if you were picked for this jury?

1 MR. HATCHER: Yes, I could.

2 MR. PARKS: No. 21.

3 MS. PIOTRASCHKE: I feel I should mention,
4 my brother-in-law, his son, he is in trouble with
5 the courts somehow, but I'm not close enough to the
6 situation to know anything about it.

7 MR. PARKS: There's nothing about that
8 situation, either the police, courts, anything that
9 you could not render a fair and impartial verdict?

10 MS. PIOTRASCHKE: No.

11 MR. PARKS: No. 24.

12 MS. QUENNOZ: My nephew has been arrested
13 and served time for drugs.

14 MR. PARKS: Here in Franklin County?

15 MS. QUENNOZ: Yes.

16 MR. PARKS: Anything about the way that was
17 handled by the police that you could not set that
18 aside and render a fair and impartial verdict.

19 MS. QUENNOZ: No, sir.

20 MR. PARKS: No. 28, Mr. Straatmann.

21 MR. STRAATMANN: My brother spent time in
22 federal prison for drugs.

23 MR. PARKS: Is there anything about the way
24 he was treated by the police, the courts, the legal
25 system that you could not set that aside and render

1 a fair and impartial verdict?

2 MR. STRAATMANN: No.

3 MR. PARKS: No. 29.

4 MS. TYREE: I have a brother and
5 brother-in-law in federal prison.

6 MR. PARKS: Is there anything about the way
7 that was handled that would leave a bad taste in
8 your mouth that you could not put that aside and
9 render a fair and impartial verdict here in this
10 case today?

11 MS. TYREE: No.

12 MR. PARKS: Anyone in the next row, No. 31,
13 Mr. Brendel.

14 MR. BRENDEL: Son, theft.

15 MR. PARKS: Was that here in Franklin
16 County?

17 MR. BRENDEL: Yes.

18 MR. PARKS: Was there anything about the way
19 that was handled by the police, the courts that left
20 a bad taste in your mouth?

21 MR. BRENDEL: No.

22 MR. PARKS: You could be fair and impartial
23 if you were on the jury?

24 MR. BRENDEL: Yes.

25 MR. PARKS: No. 33, Ms. Acton.

1 MS. ACTON: I have two sons in Franklin
2 County jail for drugs.

3 MR. PARKS: Is there anything about the way
4 they were treated by the police or anything that you
5 think was unfair that you could not be fair and
6 impartial here today?

7 MS. ACTON: No.

8 MR. PARKS: Anyone else. Anyone in the next
9 row. No. 42.

10 MR. KRIETE: My brother had a DWI about 20
11 years ago.

12 MR. PARKS: And is there anything about the
13 way he was treated by law enforcement, by the legal
14 system that you thought was unfair?

15 MR. KRIETE: No.

16 MR. PARKS: Anything about that that you
17 could not set that aside and render a fair and
18 impartial verdict here today?

19 MR. KRIETE: No.

20 MR. PARKS: Anyone else. No. 45.

21 MS. WAHLE: Nephew.

22 MR. PARKS: Here in Franklin County?

23 MS. WAHLE: Yes.

24 MR. PARKS: Anything about the way that was
25 handled by the police, the court system that you

1 could not set that aside and render a fair and
2 impartial verdict?

3 MS. WAHLE: No.

4 MR. PARKS: You could do that?

5 MS. WAHLE: I could.

6 MR. PARKS: No. 47, Mr. Roach.

7 MR. ROACH: Mr. Brother is locked up right
8 now.

9 MR. PARKS: In another state?

10 MR. ROACH: Yes.

11 MR. PARKS: Do you know a lot of facts about
12 that case?

13 MR. ROACH: I just know what he was accused
14 of.

15 MR. PARKS: Is there anything about that
16 accusation that you think the police or the courts
17 or the prosecutor or his defense attorney did
18 something that you're not happy with?

19 MR. ROACH: I'll say no.

20 MR. PARKS: If you were picked for this jury
21 panel, could you set that aside, render a verdict
22 only upon the evidence that you hear in court here
23 today?

24 MR. ROACH: Yes, sir.

25 MR. PARKS: Anyone else.

1 MR. SWINNEY: No. 50. My cousin is in jail.

2 MR. PARKS: Is that here in Franklin County.

3 MR. SWINNEY: No, sir.

4 MR. PARKS: Is there anything about that
5 incarceration, the way the police, the courts,
6 anybody handled that?

7 MR. SWINNEY: Not at all.

8 MR. PARKS: You could be fair and impartial?

9 MR. SWINNEY: Yes, sir.

10 MR. PARKS: Anyone else. No. 46, Mr. Hays.

11 MR. HAYS: My son had a few intersections
12 with law enforcement when he was a teenager.

13 MR. PARKS: Anything about the way the
14 police or courts handled that that would keep you
15 from rendering a fair and impartial verdict here
16 today?

17 MR. HAYS: No.

18 MR. PARKS: No. 51, Ms. Tuttle.

19 MS. TUTTLE: Two sons, one for traffic and
20 one for theft, and it's still in the process.

21 MR. PARKS: Was that here in Franklin
22 County?

23 MS. TUTTLE: Yes.

24 MR. PARKS: Is there anything about the way
25 the police or my office or whoever is handling that

1 or the court system that you did not feel was right?

2 MS. TUTTLE: No.

3 MR. PARKS: Is there anything about that,
4 that if you are picked for this panel you could set
5 that aside and render a fair and impartial verdict?

6 MS. TUTTLE: There's nothing that would --

7 MR. PARKS: Could you set that aside, yes or
8 no, and render a fair and impartial verdict?

9 MS. TUTTLE: Yes.

10 MR. PARKS: No. 24.

11 MS. QUENNOZ: My son had a DWI.

12 MR. PARKS: Is there anything about the way
13 that was handled by the police or courts or anything
14 that you could not set that aside?

15 MS. QUENNOZ: No, sir.

16 MR. PARKS: You could be fair and impartial?

17 MS. QUENNOZ: Yes, sir.

18 MR. PARKS: Your Honor, I do not believe I
19 have anymore questions at this time.

20 JUDGE SUTHERLAND: I do believe the jury
21 panel would like a little break at this time.

22 MR. PARKS: I would.

23 JUDGE SUTHERLAND: Ladies and gentlemen,
24 we'll be in recess for about 15 minutes. Before we
25 finish up the voir dire, I do need to read you an

1 instruction before we break. It is the court's duty
2 to instruct you now upon a matter about which you
3 will be reminded at each recess or adjournment of
4 the Court. Until the case is given to you to
5 decide, you must not discuss any subject connected
6 with the trial among yourselves or form or express
7 any opinion about it, and until you are discharged
8 as jurors, you must not talk with others about the
9 case or permit them to discuss it with you in your
10 hearing. You must not email, text or blog, instant
11 message or use any form of communication regarding
12 the case or anyone involved in the case until the
13 trial has ended and you have been discharged as a
14 juror. It is important that your decision be based
15 only on the evidence presented to you in the
16 proceedings in the courtroom. You must not do any
17 research or investigation on your own regarding any
18 matter involved in the case. For example, you must
19 not consult books, dictionaries, the Internet or
20 talk to a person you consider knowledgeable. You
21 should not read, view or listen to any newspaper,
22 radio, electronic communications from the Internet
23 or television report of the trial. The bailiff and
24 other officers of the Court are not permitted to
25 talk to you about any subject connected with the

1 trial, and you are not permitted to talk to them
2 about it. The attorneys representing the State and
3 the defendant are under a duty not to do anything
4 which may even seem improper. Therefore at recesses
5 and adjournments they will avoid saying anything to
6 the jury except perhaps something like good morning
7 or good afternoon. In doing that, they do not mean
8 to be unfriendly but are simply doing their best to
9 avoid even an appearance which might be
10 misunderstood that they are or you are doing
11 anything improper. The same applies to witnesses
12 and to the defendant. They have been or will be
13 instructed to avoid all contacts with the jury, even
14 to talk about matters wholly unrelated to the case.
15 We'll be recessed for 15 minutes. You may go out
16 with the bailiff.

17 (WHEREUPON A BRIEF RECESS TOOK PLACE)

18 JUDGE SUTHERLAND: Voir dire on behalf of
19 defendant.

20 **(VOIR DIRE ON BEHALF OF THE DEFENDANT)**

21 MR. EASTWOOD: Good morning everyone. My
22 name is Hugh Eastwood. This is my co-counsel, Chris
23 Combs, and I'm a criminal defense attorney. That
24 means I defend people who are accused of a crime.
25 Accused of a crime, nothing more. This trial is a

1 little different than some in that it has received
2 quite a bit of coverage in the press. So first off,
3 I'd like to ask anyone if they read about this trial
4 or heard about it in the press or on TV. Juror No.
5 3, without saying exactly what you heard, where have
6 you heard about this trial in the press or on TV?

7 MS. COLEMAN: Local paper.

8 MR. EASTWOOD: Would that be the Missourian?

9 MS. COLEMAN: Independent.

10 MR. EASTWOOD: How closely have you been
11 following?

12 MS. COLEMAN: I haven't.

13 MR. EASTWOOD: Just kind of skimmed the
14 headline?

15 MS. COLEMAN: Exactly.

16 MR. EASTWOOD: Have you formed an opinion
17 about the allegations against Mr. Weinhaus based on
18 what you've read or seen.

19 MS. COLEMAN: No.

20 MR. EASTWOOD: Juror No. 9. Where have you
21 heard about it?

22 MS. DUBUQUE: Paper, media and it also
23 happened in the area I live in.

24 MR. EASTWOOD: Do you live in St. Clair?

25 MS. DUBUQUE: South of St. Clair off of K.

1 MR. EASTWOOD: How closely have you been
2 following this matter?

3 MS. DUBUQUE: Well, when it comes up, I know
4 people that know him, kind of in a distant way, we
5 talk about it.

6 MR. EASTWOOD: Do you think you could be
7 fair and impartial having heard so many things
8 already?

9 MS. DUBUQUE: I think I can.

10 MR. EASTWOOD: Juror No. 12,
11 Mrs. Terschluse. Where have you heard about it?

12 MS. TERSCHLUSE: Newspaper and media.

13 MR. EASTWOOD: How closely have you been
14 following it?

15 MS. TERSCHLUSE: Well, I read it but not
16 really, I don't zero in on it.

17 MR. EASTWOOD: Do you always believe
18 everything you read in the paper?

19 MS. TERSCHLUSE: No.

20 MR. EASTWOOD: Have you formed any
21 conclusions already about this matter based on what
22 you read?

23 MS. TERSCHLUSE: No.

24 MR. EASTWOOD: Do you think you can be fair
25 and impartial?

1 MS. TERSCHLUSE: I think so.

2 MR. EASTWOOD: Juror No. 15, Mrs. Dayton.

3 MS. DAYTON: Yes.

4 MR. EASTWOOD: Where have you heard about
5 this matter?

6 MS. DAYTON: Mainly in the Missourian.

7 MR. EASTWOOD: How closely have you been
8 following it?

9 MS. DAYTON: Not closely at all. I really
10 couldn't reiterate what the case was all about.

11 MR. EASTWOOD: How familiar are you with the
12 details?

13 MS. DAYTON: Not familiar at all.

14 MR. EASTWOOD: Have you formed any judgments
15 or assumptions about this case so far?

16 MS. DAYTON: Not at all.

17 MR. EASTWOOD: Do you think you can be fair
18 and impartial?

19 MS. DAYTON: Yes, sir.

20 MS. PIOTRASCHKE: I heard it on the news and
21 read about it.

22 MR. EASTWOOD: So you heard about it on the
23 news?

24 MS. PIOTRASCHKE: Yeah, but I didn't pay
25 that much attention to it.

1 MR. EASTWOOD: Did you form any conclusions
2 or assumptions?

3 MS. PIOTRASCHKE: No.

4 MR. EASTWOOD: You could be fair and
5 impartial?

6 MS. PIOTRASCHKE: I think so.

7 MR. EASTWOOD: Mr. Haslag, similarly, how
8 have you been following this?

9 MR. HASLAG: I try to keep up with local
10 news through the newspaper every week, that's the
11 only source.

12 MR. EASTWOOD: Just reading it in the paper?

13 MR. HASLAG: Yes.

14 MR. EASTWOOD: How close have you been
15 following it?

16 MR. HASLAG: I haven't went out of my way to
17 follow it.

18 MR. EASTWOOD: Juror No. 24.

19 MS. QUENNOZ: Newspaper and the TV.

20 MR. EASTWOOD: How closely have you been
21 following it?

22 MS. QUENNOZ: Just read about it.

23 MR. EASTWOOD: How many of the details are
24 you familiar with?

25 MS. QUENNOZ: Just that it happened in

1 St. Clair.

2 MR. EASTWOOD: You could be fair and
3 impartial?

4 MS. QUENNOZ: Yes.

5 MR. EASTWOOD: Juror 27.

6 MS. PIERCE: I read about it in the
7 Missourian, and my mother-in-law lives right next
8 door to the MFA station, so I am pretty familiar
9 with it, yeah.

10 MR. EASTWOOD: Have you been to the scene or
11 have you been to that gas station many times?

12 MS. PIERCE: My whole life, yeah, for years.

13 MR. EASTWOOD: Do you regularly go in there
14 and talk to people there?

15 MS. PIERCE: Sometimes.

16 MR. EASTWOOD: Would you know the store
17 clerk there for instance?

18 MS. PIERCE: Yes.

19 MR. EASTWOOD: Do you think that you would
20 be able to be fair and impartial?

21 MS. PIERCE: Yes.

22 MR. EASTWOOD: How familiar are you with the
23 details of the allegations?

24 MS. PIERCE: Somewhat, I read about it in
25 the paper and heard about it also.

1 MR. EASTWOOD: Do you feel you are too
2 personally affected by having family that lives
3 right by where so many of these events occurred?

4 MS. PIERCE: No.

5 MR. EASTWOOD: More hands, juror No. 38.

6 MS. SCHEER: I read about it in the paper.
7 Whenever it first happened, I was paying attention.
8 I work in a county Government building in Jefferson
9 County.

10 MR. EASTWOOD: And do you feel that you
11 could be fair and impartial in this matter?

12 MS. SCHEER: Yeah.

13 MR. EASTWOOD: Did you ever feel personally
14 involved in this matter?

15 MS. SCHEER: I did have to cancel an event
16 because our office was closed.

17 MR. EASTWOOD: I'll stop you right there.
18 Do you think that you still could be fair and
19 impartial having been personally affected?

20 MS. SCHEER: I think so.

21 MR. EASTWOOD: Juror No. 40.

22 MR. CUTLER: I just read it in the paper.

23 MR. EASTWOOD: Mr. Cutler, you read about it
24 in the paper?

25 MR. CUTLER: Yes.

1 MR. EASTWOOD: How close have you followed
2 it?

3 MR. CUTLER: I haven't.

4 MR. EASTWOOD: Formed an opinion?

5 MR. CUTLER: No.

6 MR. EASTWOOD: 39, Mrs. Barringhaus.

7 MS. BARRINGHAUS: I just remember seeing it
8 in the paper.

9 MR. EASTWOOD: Juror 46, Mr. Hays.

10 MR. HAYS: I remember the initial television
11 reports and news articles, and I knew I was going to
12 be on a jury --

13 JUDGE SUTHERLAND: Sir, could you speak up.

14 MR. HAYS: I heard the initial television
15 reports and just personally read the articles until
16 the weekend when I knew I was going to be summoned
17 for jury duty.

18 MR. EASTWOOD: Did reading that article
19 before you came here today make you pre judge any of
20 the facts or allegations?

21 MR. HAYS: I don't think so.

22 MR. EASTWOOD: Do you think you could be
23 fair and impartial?

24 MR. HAYS: Yes.

25 MR. EASTWOOD: Has anybody read comments

1 about this case on social media, that would be
2 Facebook, Twitter, You Tube, the comment sections of
3 newspapers when they're online where you can post
4 comments if you read the paper online. Has anyone
5 here read or posted comments about this case on
6 social media? I see no hands. I see hands, all
7 right. And that is juror No. 38 again and this is
8 Ms. Scheer.

9 MS. SCHEER: I didn't post, I just read what
10 was on the Missourian's website.

11 MR. EASTWOOD: In the comment feed?

12 MS. SCHEER: Yeah, the comments on the
13 Missourian's website.

14 MR. EASTWOOD: People in Jeff's life who
15 love and support him have raised money in his
16 defense, and they have a website for that. Has
17 anyone ever gone to that website or received an
18 email from that group of people? I see no hands. I
19 see no hands.

20 Now, I know Mr. Parks asked you some questions
21 about law enforcement, about whether you're related
22 to or close to law enforcement or you've had an
23 experience, either you or someone in your life,
24 positive or negative with law enforcement. And I
25 want to ask some follow-up questions about that.

1 Juror No. 22, that's Mr. Haslag. I know you said
2 you had your niece's husband is your neighbor. He
3 works for the St. Clair Police Department, and you
4 said you could try your best but that sounded a
5 little hesitant to me. Is your neighbor an officer
6 for the St. Clair Police Department?

7 MR. HASLAG: Yes, he is.

8 MR. EASTWOOD: When you said you could try
9 your best, what did you mean by that?

10 MR. HASLAG: Well, I mean from what I've
11 heard, maybe I possibly should have said it would
12 cloud my judgment, I probably should have said that,
13 because I mean I believe what he tells me, I have a
14 good relationship with him and from what I've heard
15 from him --

16 MR. EASTWOOD: About this case?

17 MR. HASLAG: Right, because everybody talks,
18 right, so I try to be fair and balanced.

19 MR. EASTWOOD: But he's your friend, he
20 married your niece?

21 MR. HASLAG: Right.

22 MR. EASTWOOD: Sure, I get that. Juror No.
23 31, Mr. Brendel. I know you said you know some
24 cops. Have you ever talked about this case with the
25 cops?

1 MR. BRENDDEL: No.

2 MR. EASTWOOD: Have you commented on this
3 case?

4 MR. BRENDDEL: No.

5 MR. EASTWOOD: Online?

6 MR. BRENDDEL: No.

7 MR. EASTWOOD: Juror No. 12, that's
8 Ms. Terschluse. At one point you said you know
9 Mr. Parks' daughter?

10 MS. TERSCHLUSE: Yeah, just through my
11 sister and my niece really. She's friends with her
12 daughter and we've been at parties where they're at.

13 MR. EASTWOOD: You're both members of this
14 community?

15 MS. TERSCHLUSE: Right.

16 MR. EASTWOOD: Do you think knowing
17 Mr. Parks' daughter might make it a little bit
18 difficult for you to be fair and impartial in terms
19 of the State's witnesses versus the defense's
20 witnesses or evidence that the State puts on versus
21 the defense?

22 MS. TERSCHLUSE: I think I could be fair
23 because when you're at a party, you don't discuss
24 stuff like this.

25 MR. EASTWOOD: It would be a different kind

1 of party. Thank you very much for that. Juror No.
2 19, Mr. Hatcher. I know that you said you had a DWI
3 and they held you for 24 hours and your wife had an
4 incident once?

5 MR. HATCHER: Yes.

6 MR. EASTWOOD: But you also said you could
7 put those things aside and be fair and impartial
8 here today?

9 MR. HATCHER: I could.

10 MR. EASTWOOD: So you could put those out of
11 your mind entirely whether you're hearing the
12 testimony of police officers or of other witnesses
13 and render a fair and impartial verdict in this case
14 based only on the evidence and the instructions from
15 the Judge?

16 MR. HATCHER: Yes.

17 MR. EASTWOOD: Thank you very much. Juror
18 No. 23, Mr. Gregg. So you're a pro legalize
19 marijuana guy?

20 MR. GREGG: Yes.

21 MR. EASTWOOD: A lot of people are, it's a
22 fair subject in our community, absolutely, and I
23 know you said you'd have a hard time in the
24 punishment phase if there was a finding of guilt
25 with assessing a punishment to the defendant.

1 MR. GREGG: Yes.

2 MR. EASTWOOD: But of course the jury is
3 given discretion to punish here. Do you think you
4 could follow the guidelines and within those
5 guidelines use your discretion and judgment to
6 assess punishment?

7 MR. GREGG: I'd just feel conflicted about
8 the situation. I don't know that I could render a
9 fair verdict just to be completely honest. It's
10 just that conflict there.

11 MR. EASTWOOD: So could you render a
12 punishment of no punishment at all?

13 MR. GREGG: Yes.

14 MR. EASTWOOD: Juror No. 2, Mr. Click. I
15 know you said that some cousins and an uncle and
16 aunt had a run-in with the law?

17 MR. CLICK: Yes.

18 MR. EASTWOOD: And one of your family
19 members, a cousin or uncle was beaten?

20 MR. CLICK: An uncle, yeah.

21 MR. EASTWOOD: How close are you to these
22 family members?

23 MR. CLICK: The uncle in question has passed
24 on, it's been several years ago, but it left a
25 lasting impression.

1 MR. EASTWOOD: Could you put that lasting
2 impression aside and be fair and impartial here?

3 MR. CLICK: I think I can, yes.

4 MR. EASTWOOD: You could be fair to the
5 State and the defense?

6 MR. CLICK: Yes.

7 MR. EASTWOOD: And listen to the testimony
8 of law enforcement officers and other witnesses and
9 have a fair and impartial verdict?

10 MR. CLICK: I think so.

11 MR. EASTWOOD: Thank you very much. Now you
12 are -- I don't know but I would expect you're likely
13 to hear the testimony of law enforcement officers in
14 this trial as the State's witnesses. Does anyone
15 here disagree with the proposition that law
16 enforcement officers are human, like you and me, and
17 just like you and me, just like any other human
18 being law enforcement officers can tell the truth
19 but they can also lie, does anyone disagree with
20 that? I see no hands. Does everyone here think
21 that they could make a decision for themselves about
22 whether a law enforcement officer was telling the
23 truth just like any other human being, any other
24 witness you heard testify? I see no hands. Is
25 anyone here just a little bit more likely to believe

1 someone because they are a law enforcement officer
2 testifying under oath as opposed to someone else?
3 Anyone else here just a little more credible, juror
4 No. 4, that's Mr. Suntrup. Can you tell me about
5 that, sir?

6 MR. SUNTRUP: Yeah, I believe that law
7 enforcement ought to be believed because they are
8 law enforcement, and if we can't believe our law
9 officers, we're in trouble.

10 MR. EASTWOOD: So you're more likely to
11 believe a law enforcement officer than just some guy
12 off the street?

13 MR. SUNTRUP: Yes.

14 MR. EASTWOOD: And do you feel that would be
15 the case throughout this trial?

16 MR. SUNTRUP: Uh-huh.

17 JUDGE SUTHERLAND: Is that a yes?

18 MR. SUNTRUP: Yes.

19 JUDGE SUTHERLAND: I thought it was but it's
20 hard for the reporter to get those uh-huhs down very
21 well.

22 MR. EASTWOOD: Thank you very much, sir.
23 And do you believe that you would be fair and
24 impartial nevertheless while believing a law
25 enforcement officer more than someone off the

1 street?

2 MR. SUNTRUP: Yes.

3 MR. EASTWOOD: Thank you very much. Now,
4 you're going to hear a lot about free speech in this
5 case, and I know Mr. Parks asked you some questions
6 about that. And it seemed like everyone agreed that
7 we all have the right to criticize Government
8 officials. I want to talk to you for a minute about
9 context, because I think when we talk about speech,
10 context matters. Does anybody disagree that words
11 mean the same thing no matter where they are said or
12 the context in which they are said. Does anyone
13 disagree with that? I see no hands.

14 MR. DZIEJMA: Could you repeat that.

15 MR. EASTWOOD: Sure. Does everyone
16 understand what I mean by context. For example,
17 saying something in a letter you mailed to someone
18 privately is different than saying something
19 standing in the town square across the street. Does
20 everyone agree that saying something privately in a
21 letter or phone call is different than saying
22 something to someone in public on the street?
23 Anyone disagree with that? That's what I mean by
24 context.

25 Now, I want to talk to you about extreme

1 political speech. By that I mean speech that can be
2 upsetting, that can be offensive, that can be
3 outrageous, that you can really, really disagree
4 with, makes you sick to your stomach. Does anyone
5 think that speech ought to be banned, ought to be
6 punished? You really don't like it, it makes you
7 sick to your stomach and it offends you. I see no
8 hands.

9 Does everyone agree that something that's a
10 threat in one context could not be a threat in a
11 different context? So for example, if I said to my
12 friend Mr. Combs here, "I'm going to kill you
13 tonight," that might be different than me saying
14 when I walk out of here in a joking manner, "oh,
15 man, I want to kill you." Those could be read
16 differently, right? Is it fair to say context
17 matters? Does anyone disagree with that? You
18 wouldn't just look at the words but you'd look at
19 how they were said, where they were said, who they
20 were said to. Does anyone disagree that all those
21 factors are important when you're looking at
22 someone's statements?

23 Does anyone here, and I realize some of you
24 probably use the Internet more than others or don't
25 use it at all, but does anyone here just feel they

1 have difficulty evaluating evidence in the form of a
2 You Tube video? I see no hands. Sorry, juror No.
3 11, that's Mr. Strassner.

4 MR. STRASSNER: I would have to be shown
5 that You Tube video is credible. I mean obviously
6 any media is able to be manipulated and You Tube
7 videos are not excluded from that.

8 MR. EASTWOOD: Fair enough, that's a fair
9 thing to say. In your experience are normally You
10 Tube videos available to anyone on the Internet.

11 MR. STRASSNER: Generally speaking.

12 MR. EASTWOOD: But you'd hold the State to
13 requiring an explanation about where this video came
14 from?

15 MR. STRASSNER: I think that's fair for any
16 information, the source of it needs to be explained.

17 MR. EASTWOOD: But if the State met that
18 burden, you could be fair and impartial to the State
19 in evaluating that video?

20 MR. STRASSNER: Of course.

21 MR. EASTWOOD: Thanks very much. A few
22 years ago, I think it was the 2010 election, Sarah
23 Palin made an ad that was pretty famous, and in the
24 ad she said, "On election day we're going to put
25 certain congressmen in the crosshairs and take them

1 out of office." And she actually had pictures of
2 different congressional seats on the map. One of
3 them was the congressional seat of Gabbie Giffords
4 in Arizona, and tragically about a month later a
5 very mentally ill man shot congresswoman Giffords.
6 Everyone heard of that? Anyone not heard of that?
7 Who here thinks that Sarah Palin went too far,
8 anyone? Who here thinks that Sarah Palin broke the
9 law? Who here is offended by what Sarah Palin said?
10 Juror No. 15, Mrs. Dayton. You say you're offended
11 by what she said?

12 MS. DAYTON: I just think that a lot of
13 politicians can go too far in their assessment of
14 other opponents, and I think that that's
15 unnecessary.

16 MR. EASTWOOD: Would you throw them in jail
17 for it?

18 MS. DAYTON: No, there's free speech.

19 MR. EASTWOOD: So here if you were asked to
20 judge someone's speech, even if you were offended by
21 it, you thought it went too far, you still could be
22 fair and impartial and follow the law?

23 MS. DAYTON: Yes.

24 MR. EASTWOOD: I want to ask you now about
25 the Second Amendment, the right to carry a gun.

1 Mr. Parks asked you whether you agreed or disagreed
2 with the fact that in Missouri under our
3 constitution, state constitution and our federal
4 constitution, you have the right to open carry a
5 gun, not hidden, not concealed, you need a permit
6 for that, but you have the right to open carry a
7 gun. And Mr. Parks asked if anyone thought it was
8 illegal, and I know I think about three of you did.
9 Does anyone disagree with that? Does anybody just
10 think it's wrong that you're able to open carry a
11 gun? All right, let's start with juror No. 21 and
12 that is Ms. Piotraschke.

13 MS. PIOTRASCHKE: I think we have too many
14 people carrying guns already. You can't let
15 everyone walk around with a gun. I don't think
16 that's right. I think it's dangerous, too many
17 idiots out there shooting people for no reason.

18 MR. EASTWOOD: Do you think that someone is
19 automatically inherently more dangerous just because
20 they're carrying a gun on their person?

21 MS. PIOTRASCHKE: No, I just think there are
22 certain people who should not carry guns because
23 they can't control their temper or they don't know
24 how to operate it, they just think they do or stuff
25 like that.

1 MR. EASTWOOD: Fair enough. Fair enough.
2 Would you hold it against someone just for carrying
3 a gun if you're sitting in judgment of them?

4 MS. PIOTRASCHKE: No, I can't say that, no,
5 but I sure hope none of my neighbors are walking
6 around carrying guns, and I hope that doesn't get
7 out of this courtroom. Let's keep it under wraps.

8 JUDGE SUTHERLAND: Don't have an argument
9 with any of your neighbors.

10 MR. EASTWOOD: Juror No. 15, Ms. Dayton. I
11 know at one point you said you didn't like guns. Do
12 you think that if someone is carrying a gun, open
13 carrying a gun on their side that they're more
14 dangerous?

15 MS. DAYTON: No.

16 MR. EASTWOOD: If you're sitting in judgment
17 of someone, would you hold it against them just for
18 the fact that they're carrying a gun?

19 MS. DAYTON: No, I would not.

20 MR. EASTWOOD: You could be fair and
21 impartial?

22 MS. DAYTON: Yes.

23 MR. EASTWOOD: Juror No. 24, Mrs. Quennoz.
24 You said at one point you don't -- you didn't
25 believe it was legal to open carry a gun?

1 MS. QUENNOZ: I'm sorry, I feel silly but I
2 thought Missouri was a conceal and carry.

3 MR. EASTWOOD: Do you not like guns?

4 MS. QUENNOZ: Not particularly but I believe
5 in everyone's right, if that's what you want to do,
6 you have the right to do that, that's the law.

7 MR. EASTWOOD: Do you think someone is more
8 dangerous because they're carrying a gun?

9 MS. QUENNOZ: No.

10 MR. EASTWOOD: Do you think someone is
11 escalating the danger just because they're carrying
12 a gun?

13 MS. QUENNOZ: No, sir.

14 MR. EASTWOOD: You could be fair and
15 impartial of someone you're sitting in front of even
16 though they were carrying a gun?

17 MS. QUENNOZ: Yes, sir.

18 MR. EASTWOOD: Juror No. 45, is it Mr.
19 Wahle?

20 MS. WAHLE: Yes.

21 MR. EASTWOOD: At one point you made a
22 comment about guns earlier, is it that you don't
23 like guns?

24 MS. WAHLE: I didn't make a comment.

25 MR. EASTWOOD: I'm sorry, I'm mistaken.

1 What are your thoughts on guns, you don't like them?

2 MS. WAHLE: I don't like them.

3 MR. EASTWOOD: Do you think someone is more
4 dangerous because they're carrying a gun?

5 MS. WAHLE: Yes.

6 MR. EASTWOOD: So you think -- would you
7 hold it against them in a trial just because of the
8 mere fact they were carrying a gun?

9 MS. WAHLE: No.

10 MR. EASTWOOD: You wouldn't think
11 automatically that person is more dangerous?

12 MS. WAHLE: No, I just don't think they need
13 to be carrying a gun.

14 MR. EASTWOOD: You're also going to hear
15 messages about Christianity, about Evangelical
16 Christianity. Obviously a lot of people in our
17 community are Christian. Is anyone offended by
18 Evangelical Christian proselytizing. Is there
19 anyone that that just rubs them the wrong way, they
20 don't want to hear it?

21 MR. HATCHER: I think everybody has the
22 right to be a Christian, any religion, it's like
23 freedom of speech again, and that should not stop
24 that person because of one religion, there are
25 several different religions. I'm Catholic but I

1 still go to different churches. Last time I've been
2 to church was probably five years ago but everybody
3 has a different religion. You have probably almost
4 five or 10 different religions if you were to look
5 at it and sit down and see it, so no, it would not
6 hurt me.

7 MR. EASTWOOD: Would it change your
8 perception of the defendant because he's an
9 Evangelical Christian?

10 MR. HATCHER: No, everybody has their
11 belief, that's what I'm saying.

12 MR. EASTWOOD: Is anyone here going to hold
13 it against the defendant that he is an Evangelical
14 Christian. I see no hands. That he likes to speak
15 out about Jesus and the bible and his faith? Thank
16 you.

17 Drugs, okay, we've talked a little bit about
18 pot. Does anyone here have such strong views on
19 marijuana that they feel it would affect their
20 ability to either judge the guilt or to impose
21 sentencing in this matter? Juror 23, we already
22 spoke about that, is that fair to say Mr. Gregg?

23 MR. GREGG: Yeah.

24 MR. EASTWOOD: Juror 19, Mr. Hatcher, I see
25 your hand up.

1 MR. HATCHER: I think they should make it
2 legal not to destroy it but like somebody that has a
3 chronic disease, they should make it legal, where
4 they're using it to prevent you from dying.

5 MR. EASTWOOD: Medical marijuana.

6 MR. HATCHER: Medical marijuana because they
7 have in California and there are people that are in
8 pain and that does help them. So they're not
9 breaking the law, they are using it by a medical
10 doctor, so I don't see anything wrong with it. If
11 you got people smoking marijuana in their home, you
12 got these meth labs.

13 MR. EASTWOOD: Are they a little different?

14 MR. HATCHER: Yeah, what is the difference
15 between marijuana and -- if it was me, I would tell
16 them to make everything legal and stuff. I just
17 don't see anything wrong with that.

18 MR. EASTWOOD: Let's talk about the amount
19 of drugs, the amount of the evidence. Would the
20 amount of drugs, whether it's a tiny little bit of
21 marijuana for personal use or a big bushel
22 presumably for sale, would that affect anyone's
23 ability either to assess guilt or sentencing?

24 MS. PIOTRASCHKE: If a guy had one beer or
25 had drank a case of beer, is he just a little bit

1 drunk or a whole lot drunk?

2 MR. EASTWOOD: Juror 21, I take your point.

3 MS. PIOTRASCHKE: Does the same thing no
4 matter what.

5 MR. EASTWOOD: Would it affect your sense of
6 sentencing perhaps, how severe a crime it was?

7 MS. PIOTRASCHKE: I don't think so. If he's
8 done the crime, whether he was drunk or not drunk,
9 he's still got it, whatever it was.

10 MR. EASTWOOD: Would you impose a different
11 sentence for a lot of marijuana as opposed to a tiny
12 amount?

13 MS. PIOTRASCHKE: No.

14 MR. EASTWOOD: You'd impose the same
15 sentence?

16 MS. PIOTRASCHKE: For the crime, yes, but if
17 you're judging him for the intake of marijuana,
18 that's something else, but we're not, we're judging
19 him on what, something else.

20 MR. EASTWOOD: I want to talk about
21 prescription drugs. I'm sorry, sir, juror No. 11
22 and that is Mr. Strassner.

23 MR. STRASSNER: Going back to your previous
24 point, I believe there's different laws regarding
25 different amounts of marijuana that would entail

1 different sentencing and so forth.

2 MR. EASTWOOD: Yes, you are correct, sir,
3 within degrees. Does anyone have any further hands
4 on pot?

5 Prescription drugs. We live in a society where
6 increasingly people take prescription drugs for a
7 variety of ailments, ongoing, sometimes temporary,
8 sometimes ongoing. You will -- I anticipate you
9 will hear evidence about prescription Morphine
10 tablets. Does anyone here in their own life or life
11 of people close to them have a particularly good or
12 bad experience with prescription painkillers?

13 MS. SIEVE: Can you clarify.

14 MR. EASTWOOD: Sure. Does anyone here,
15 either themselves personally or someone close to
16 them in their life, have a particularly good or
17 particularly bad experience with prescription
18 painkillers that would affect their ability to be
19 fair?

20 MS. SIEVE: As a nurse, after surgery,
21 patients are often given pain medication, so I've
22 seen a real need for it, but I don't have a bias,
23 they either have it legally or they don't.

24 MR. EASTWOOD: You're Mrs. Sieve?

25 MS. SIEVE: Yes.

1 MR. EASTWOOD: So patients can be prescribed
2 painkillers.

3 MS. SIEVE: And there's a good purpose for
4 it.

5 MR. EASTWOOD: What is that purpose?

6 MS. SIEVE: It allows them to get up and
7 move, which decreases blood clots and increases
8 healing. There's a lot of positive effects but
9 you're asking a question of whether he has it
10 prescription or not prescription, so there's a whole
11 lot of missing information.

12 MR. EASTWOOD: Juror No. 10, I'm sorry, No.
13 2, Mr. Click.

14 MR. CLICK: I had a close personal family
15 member who was eventually hooked on prescription
16 pain medication and wound up getting them anyway she
17 could and pretty much destroyed her life in the
18 process.

19 MR. EASTWOOD: Does that make you -- does
20 that make it difficult, that's an upsetting thing to
21 watch, isn't it?

22 MR. CLICK: Yes.

23 MR. EASTWOOD: She's a drug addict?

24 MR. CLICK: Pretty much.

25 MR. EASTWOOD: Does that make it difficult

1 for you to be fair when you hear about allegations
2 of possession of a prescription.

3 MR. CLICK: I have little sympathy for it.

4 MR. EASTWOOD: Sympathy for the person
5 accused?

6 MR. CLICK: Yes.

7 MR. EASTWOOD: So would it make it difficult
8 for you to be fair and impartial given this
9 experience you went through?

10 MR. CLICK: Given my background, I would
11 always try to be impartial in any court situation,
12 but I would probably struggle with that one a little
13 bit but I would still be impartial.

14 MR. EASTWOOD: Those memories from your own
15 personal life might come in a little bit?

16 MR. CLICK: Yes.

17 MR. EASTWOOD: Juror No. 10,
18 Mrs. Sensenbrenner, did you have your hand up
19 earlier?

20 MS. SENSENBRENNER: No.

21 MR. EASTWOOD: Any hands over here on the
22 prescription drug issue? Does everyone agree that
23 prescription drugs are more and more commonly
24 prescribed today. I see a lot of heads shaking.
25 Does everyone think that it's a pretty common thing

1 in most family medicine chests to have a bunch of
2 prescription pills for different members of the
3 family? I see a lot of nods yes, pretty common
4 thing. Does anyone think it's reasonable for your
5 average family to worry that if the police came into
6 their house, they might not be able to produce a
7 current prescription for every single last pill in
8 the house? Does anyone think that's reasonable,
9 juror No. 21, you're shaking your head.

10 MS. PIOTRASCHKE: I got all my
11 prescriptions, you keep them for your tax purposes.
12 I can't imagine having something that you don't have
13 proof that it's legal or whatever.

14 MR. EASTWOOD: Would you have a problem with
15 someone who couldn't produce a prescription for
16 every last single pill in their medicine chest?

17 MS. PIOTRASCHKE: I would automatically
18 assume that he got it illegally.

19 MR. EASTWOOD: You would automatically
20 assume that?

21 MS. PIOTRASCHKE: Yes, I would. Even if you
22 don't have the prescription, you should be able to
23 either call the doctor whose name should be on there
24 and he would confirm that you got it.

25 MR. EASTWOOD: Do you feel that way for any

1 medication, whether that's prescription, whether
2 it's a painkiller or say diabetes medication,
3 doesn't matter?

4 MS. PIOTRASCHKE: If it's not a
5 prescription, everybody can have it.

6 MR. EASTWOOD: Is it fair to say that some
7 prescription medicines are different than others,
8 some are particularly what are called controlled
9 substances, things like Morphine, painkillers?

10 MS. PIOTRASCHKE: Yes.

11 MR. EASTWOOD: And would you treat those
12 drugs differently than you would a more innocuous
13 prescription than like a nasal spray?

14 MS. PIOTRASCHKE: I'm very careful with all
15 of mine and do exactly what it says. No, if you've
16 got small children around, you might be more careful
17 of locking it up or something, but medication is
18 medication, you treat it as medication.

19 MR. EASTWOOD: Fair enough. Juror No. 10,
20 that's Mrs. Sensenbrenner again.

21 MS. SENSENBRENNER: A prescription is a
22 prescription. You are given that by a physician,
23 whether it's nasal spray -- if it's a prescribed
24 nasal spray, it's a prescription. So I would say
25 that if it's a nasal spray or a painkiller, it is

1 still a prescription. So I wouldn't define -- you
2 can OD on nasal spray and you can OD on painkillers,
3 so a prescription is a prescription for me.

4 MR. EASTWOOD: Thank you very much. Juror
5 No. 46, Mr. Hays. Could you stand and speak up a
6 little bit.

7 MR. HAYS: I can agree with what the lady
8 said. If a drug is a controlled substance, you
9 should have a prescription for that. These drugs
10 are abused. And gee, if I had that and I lost the
11 prescription, I'd be worried about that. I would
12 have a problem with that, someone not having a
13 prescription for a controlled substance.

14 MR. EASTWOOD: And would you have a problem
15 with someone, whether it was one tablet or 100
16 tablets?

17 MR. HAYS: Yes.

18 MR. EASTWOOD: Would that matter for anyone
19 here, whether it was one tablet or 100 tablets?
20 Juror No. 45, Ms. Wahle.

21 MS. WAHLE: I'm not sure what they're
22 saying. I have medicine in my cabinet that I don't
23 keep the prescription at home. Once I have it
24 filled, that's it. I don't necessarily use all the
25 pills when I need them from a surgery or whatever

1 the case may be, but I wouldn't feel that's any kind
2 of crime. Are you saying I should produce my thing
3 from the doctor to get the drugs, I don't believe
4 that.

5 MR. EASTWOOD: Let me ask you this.

6 MS. WAHLE: Don't you give that to them,
7 don't they keep it? So I wouldn't have anything at
8 home, they keep it.

9 MR. EASTWOOD: Sitting as a juror in
10 judgment of someone accused of a crime, would the
11 quantity of pills or tablets matter, would it matter
12 if it was one tablet or 100 tablets?

13 MS. WAHLE: I would say yeah, I think it
14 would.

15 MR. EASTWOOD: Why would that be?

16 MS. WAHLE: What do you need 100 oxycodone
17 for.

18 MS. PIOTRASCHKE: I don't think you can get
19 100. Those prescriptions aren't for more than 60
20 days.

21 MR. EASTWOOD: I agree with you, that's a
22 lot of pills. Why would it matter to you whether
23 it's one or 100?

24 MS. PIERCE: What are you doing with that
25 many pills. I would question why you had 100 pills,

1 what are you doing with those.

2 MR. EASTWOOD: This is juror No. 27,
3 Mrs. Pierce.

4 MS. PIERCE: I would question if you had
5 just a few pills or if you had 100 pills. I don't
6 know why you would have 100. Like I said, a
7 controlled substance like that, you can't get a
8 prescription that big.

9 MR. EASTWOOD: Juror No. 8, Mrs. Sieve.

10 MS. SIEVE: I've been a nurse and paramedic
11 for almost 20 years, and I have been in family homes
12 where somebody has chronic pain and there I've seen
13 over 300 Percocet in one bottle before for chronic
14 pain. Then there comes the problem where so the
15 prescription, what she was asking, the prescription
16 is a label on the bottle, he's not talking about the
17 paper prescription any longer. So if the person is
18 going to go stay with her granddaughter, because if
19 she can't control her pill consumption, they may put
20 it in those seven day containers that don't have the
21 prescription on them, but they should be able to
22 verify through the pharmacy or doctor that it was
23 prescribed, and they can identify the pills because
24 they all have different manufacturing marks and
25 colors, so it should be traceable to find out if

1 that is indeed their prescription, but it is illegal
2 to transport it without being in the prescription
3 bottle, I believe.

4 MR. EASTWOOD: Are you saying that sometimes
5 in your experience as a nurse, you've come across
6 people having one or two or a small quantity of
7 tablets without the prescription label bottle?

8 MS. SIEVE: I have seen that in the seven
9 day pill planners, especially for those who may have
10 trouble reading, their family may plan it for them
11 for the week. They can't get tops off because of
12 arthritis, so there's different things that have led
13 to that.

14 MR. EASTWOOD: And I've asked this to other
15 people, sitting here in judgment of someone charged
16 with possession of a substance, would it make a
17 difference to you as to the quantity of the pills or
18 tablets that were there, whether it was one or 100?

19 MS. SIEVE: I would ask to refer back to the
20 law, for example marijuana, because there's the
21 question of intention to distribute. So I would
22 hope those questions would be answered.

23 MR. EASTWOOD: Fair question. Just so you
24 know, I think the evidence here I anticipate will be
25 about one and a half tablets. Everyone here seen a

1 movie in their life? Anyone have not seen a movie
2 in their life? I see no hands. Okay. Everyone
3 agrees it's fair to say that you're at home and you
4 tune into the movie about halfway through and you
5 watch only 10 or 15 minutes of it, you may not
6 understand everything that's going on in the movie,
7 is that fair to say? I see a lot of head shaking.
8 Anyone here disagree with the proposition that you
9 have to watch the whole movie, you have to see the
10 whole thing, hear the whole thing before you can
11 come to a judgment not only about whether or not you
12 like it but about to the motivations of the
13 characters, about what they've done, perhaps their
14 true identity, the facts, does anyone disagree with
15 that?

16 MR. STRASSNER: Sure.

17 MR. PARKS: Juror No. 11, Mr. Strassner.

18 MR. STRASSNER: I could read about the movie
19 online. I could find out these things from the
20 cliff notes version. There are other ways to get
21 that information.

22 MR. EASTWOOD: That's a fair point. Let's
23 take this as an analogy. If the Judge asked you not
24 to look at the cliff notes, not to talk to other
25 people about it, instead the Judge asked you just to

1 watch the whole movie from start to end before you
2 made any conclusions about who Luke Skywalker's
3 father was or whether Kaiser Soze was the real
4 mastermind or whatever, could you do that, could you
5 not go online, not talk to other people, watch the
6 whole movie through and through to reach your
7 conclusions about it?

8 MR. STRASSNER: Yes.

9 MR. EASTWOOD: Juror No. 10.

10 MS. SENSENBRENNER: Sometimes you can sit
11 through an entire movie and still go what?

12 MR. EASTWOOD: Juror No. 37, Mr. White.

13 MR. WHITE: I don't know where you're headed
14 towards this, but if someone asks me to make an
15 assumption after watching a half of a movie and not
16 seeing the whole movie, then I would have a problem
17 with it.

18 MR. EASTWOOD: That's what I'm getting at.

19 MR. WHITE: I would want to see the whole
20 movie before making a decision.

21 MR. EASTWOOD: Especially when coming to a
22 verdict against someone.

23 MR. WHITE: I would want to see the whole
24 movie, not just a part.

25 MR. EASTWOOD: Does anyone think they don't

1 have to see the whole movie to come to a judgment
2 about it, particularly if the Judge instructed them
3 to watch the whole movie and not to go online, talk
4 to other people about it, does anyone disagree with
5 that? I see no hands.

6 Finally I want to talk about the burden here.
7 This is not a civil case, this is not one of these
8 things where the scales just need to tip ever so
9 slightly. This is a criminal trial and therefore
10 the State has the entire burden of proof beyond a
11 reasonable doubt. Not that you're fairly certain,
12 not that more likely than not, that kind of sorta I
13 bet, probably, beyond a reasonable doubt, firmly
14 convinced. So that means Mr. Parks in the form of
15 the State has a lot of work to do. Does anyone have
16 a problem with the fact that the entire burden rests
17 on the State to prove every element of each offense
18 beyond a reasonable doubt? Does anyone have a
19 problem with that? I see no hands. I don't
20 anticipate I'm going to do this but I could just sit
21 here the whole trial and say nothing, do nothing,
22 and if Mr. Parks didn't meet his burden of proving
23 each element of the offense beyond a reasonable
24 doubt, you ought not to convict. Who would have a
25 problem with that if I sat there the whole trial and

1 did nothing and feel like they'd have to hear
2 something from me in order to render a verdict?

3 MR. STRASSNER: The point of your question,
4 as I understand it, but yes, I would have a problem
5 with you not doing your portion of the civic duty.

6 MR. EASTWOOD: What's my duty?

7 MR. STRASSNER: To aid your defendant in
8 whatever way needs to happen. If you were to sit
9 there the whole time, I would come to a conclusion
10 that you're not wanting to do your job.

11 MR. EASTWOOD: What do you think I'm
12 obligated to do under terms of proof?

13 MR. STRASSNER: Nothing in terms of proof, I
14 understand your question but the way you posed it
15 leads a little bit of criticism open.

16 MR. EASTWOOD: Juror No. 10, I saw you
17 nodding.

18 MS. SENSENBRENNER: I agree that if you're
19 sitting there twiddling your fingers and not
20 listening or partaking in the actions that go on
21 here, then I would say that you're lacking.

22 MR. EASTWOOD: Sure, perhaps as a defense
23 lawyer, but would I be lacking in terms of the
24 burden of the State?

25 MS. SENSENBRENNER: No.

1 MR. EASTWOOD: Anyone else have a thought if
2 I just sat there and did nothing the whole time,
3 Chris Combs sat there and did nothing the whole
4 time?

5 MS. PIOTRASCHKE: I'd fire you.

6 MR. EASTWOOD: Now in America you are under
7 no obligation to testify in your own defense. Who
8 here would have trouble rendering a fair verdict if
9 they didn't hear the defendant tell his side of the
10 story? Who here feels that they kind of need to
11 hear the defendant's side of the story to render a
12 fair verdict? Anyone? Juror No. 47, that's
13 Mr. Roach.

14 MR. ROACH: I'd like to hear his story.

15 MR. EASTWOOD: You'd like to hear his story?

16 MR. ROACH: From him.

17 MR. EASTWOOD: You think it's only fair?

18 MR. ROACH: Yes.

19 MR. EASTWOOD: Do you think if you don't
20 hear his side of the story, would you hold it
21 against him?

22 MR. ROACH: I wouldn't hold it against him
23 but I would prefer to hear it from him.

24 MR. EASTWOOD: Would you think less of his
25 defense maybe?

1 MR. ROACH: Not personally.

2 MR. EASTWOOD: Not me, I'm irrelevant but in
3 terms of your weighing the evidence?

4 MR. ROACH: No, I don't think so, but I
5 would personally like to hear it from him straight.

6 MR. EASTWOOD: And you might have a harder
7 time rendering a verdict if you didn't hear it from
8 him?

9 MR. ROACH: I think I could weigh the
10 differences.

11 MR. EASTWOOD: Juror No. 18 and your name is
12 Mrs. Bates.

13 MS. BATES: Yeah, I don't think that it
14 would make any difference in whether or not I was
15 impartial or partial, but I do think that goes back
16 to the whole movie, you know, that's part of the
17 missing movie if the defendant doesn't testify or
18 doesn't tell his side of the story.

19 MR. EASTWOOD: So you'd have some questions?

20 MS. BATES: I might have some questions
21 because that movie would not be complete.

22 MR. EASTWOOD: That's a good point.

23 MS. BATES: I would feel like I'm missing
24 something. Whether I am or not is unknown, but I
25 would feel like I'm missing something important.

1 MR. EASTWOOD: If you have some questions
2 about the allegations against Jeff, about the
3 State's case against Jeff, do you think it's my job
4 to answer them? Anyone?

5 MS. PIOTRASCHKE: Say that again.

6 MR. EASTWOOD: If you have some questions
7 about the State's case, do you think it is my job,
8 do you think it is the defendant's job to answer
9 those questions?

10 MS. PIOTRASCHKE: I don't know, I don't know
11 whose job it would be but it would be nice if we
12 could ask questions.

13 MR. EASTWOOD: We will get to that. Some
14 judges allow jury questions, some don't, I don't
15 know, we will get to that, but what I'm getting at
16 is if you have questions about the State's case, do
17 you think it's Mr. Parks' job or my job to answer
18 those questions. Is it the State's job or the
19 defendant's job, and if you think it's the
20 defendant's job at least a little bit, I'd like you
21 to put your hand up and talk to me about it. Juror
22 No. 30, that's Mr. Dziejma.

23 MR. DZIEJMA: Your job is to make sure
24 there's due process, so if the State introduces
25 evidence in such a way that it reflects badly on

1 your client and not in a -- sensationalized and
2 whatever, then that's your obligation to clear that
3 up and clear up that picture. So if they introduce
4 the muddy water, you add the water filter.

5 MR. EASTWOOD: You'd ask me to filter the
6 mud out of their water?

7 MR. DZIEJMA: Absolutely.

8 MR. EASTWOOD: So you hold it to the
9 defendant to clear up the picture if the picture was
10 muddy?

11 MR. DZIEJMA: Sure, because they'd do the
12 same thing for you. If you muddy the water, they
13 have to clarify it.

14 MR. EASTWOOD: But I don't have to do
15 anything, right, what's my burden?

16 MR. DZIEJMA: Your burden is to protect the
17 due process of your client. So if they misrepresent
18 something or paint it in a tinted light that favors
19 the prosecution, is it not your obligation to say
20 well, introduce some doubt?

21 MR. EASTWOOD: Maybe we're talking about two
22 different things here. I guess my question is if
23 the evidence is unclear as to something the State
24 has to prove up, are you going to hold it against
25 the State or are you going to hold it against the

1 defendant to clear it up?

2 MR. DZIEJMA: The State has to make their
3 case, no question.

4 MR. EASTWOOD: Any other hands. If you do
5 find the defendant guilty on any of the counts, you
6 will be asked to assess the punishment. Who here
7 would have a problem just in principal with
8 mitigating, lessening, reducing the punishment
9 because of whatever evidence you see? I see no
10 hands.

11 MR. STRASSNER: I would like you to clarify
12 your question. Do you mean within the prescribed
13 boundaries of the law?

14 MR. EASTWOOD: Correct.

15 MR. STRASSNER: Then fine, thank you, I'm
16 good.

17 MR. EASTWOOD: Who here feels you did the
18 crime, you do the time, you do the max time. I see
19 no hands.

20 Finally, and I'm done now almost, do any of you
21 right now, before I sit down here, already have any
22 presumptions about the guilt or innocence of Jeff
23 Weinhaus? Anyone have any presumptions right now?
24 Any presumptions of guilt? I remind you that
25 Mr. Weinhaus is innocent until found guilty beyond a

1 reasonable doubt by this jury. All of us, all of us
2 sitting here in this room today, you will be asked,
3 because of him, you will be asked to sit in judgment
4 of him. He's in a pretty scary place right now.
5 Thank you.

6 JUDGE SUTHERLAND: Ladies and gentlemen,
7 we're going to recess again in just a minute to get
8 the trial jury selected. I think that will take at
9 least 30 minutes, very likely somewhat longer.
10 We'll certainly get it done as quickly as we can.
11 We need No. 7, Ms. Fletcher; No. 18, Ms. Bates; and
12 No. 32, Mr. Debonnaire, so stick around, you wanted
13 to talk privately. One more time the instruction
14 gets shorter after that first long one. The court
15 again reminds you of what you were told at the first
16 recess of the court. Until you retire to consider
17 your verdict, you must not discuss this case amongst
18 yourselves or with others or permit anyone to
19 discuss it in your hearing. You should not formally
20 express any opinion about the case until it is
21 finally given to you to decide. You may not do any
22 research or investigation on your own about any
23 matter regarding this case or anyone involved with
24 the trial. Do not communicate with others about the
25 case by any means. Do not read, view or listen to

1 any newspaper, radio or electronic communication
2 from the Internet or television report of the trial.
3 We're in recess, not quite in recess, but you may go
4 out with the bailiff, except those three jurors I
5 mentioned.

6 MR. PARKS: Judge, No. 30 would like to have
7 a conference as well.

8 JUDGE SUTHERLAND: Okay, No. 30.

9 (WHEREUPON THE JURY PANEL EXITED THE COURTROOM)

10 (WHEREUPON MS. FLETCHER APPROACHED THE BENCH)

11 JUDGE SUTHERLAND: Ms. Fletcher, if you want
12 to come on up. Ms. Fletcher, what was it?

13 MS. FLETCHER: I was charged with a felony
14 17 years ago, and I felt uncomfortable the way I was
15 treated by the police department.

16 JUDGE SUTHERLAND: Do you mind telling us
17 what that was?

18 MS. FLETCHER: Promoting prostitution in the
19 third degree.

20 JUDGE SUTHERLAND: Were you charged or
21 convicted?

22 MS. FLETCHER: I was charged with a felony
23 in the third degree.

24 JUDGE SUTHERLAND: Was that in Arkansas?

25 MS. FLETCHER: No, Florissant, 17 years ago.

1 JUDGE SUTHERLAND: So there was no
2 conviction on your record?

3 MS. FLETCHER: Well, it was a felony charge
4 17 years ago, so I guess it would still be on there.
5 It's like 20 years or something.

6 JUDGE SUTHERLAND: It is?

7 MR. PARKS: Yeah.

8 JUDGE SUTHERLAND: Any questions?

9 MR. EASTWOOD: If you were chosen to serve
10 on this jury, do you think you would be fair and
11 impartial?

12 MS. FLETCHER: I think I can. I know I
13 should be saying yes or no. Yes, yes.

14 MR. EASTWOOD: Would you believe a policeman
15 less than someone off the street?

16 MS. FLETCHER: No.

17 MR. EASTWOOD: Would you treat him any
18 differently than any other witness?

19 MS. FLETCHER: No. And I have one other
20 thing as far as you were asking about if we have
21 something we need to do or take care of. I have
22 injured my back pretty bad, so I'm in a lot of pain,
23 I've been going to rehab and I've been sick for the
24 last month, so I'm kind of in here struggling.

25 JUDGE SUTHERLAND: Is it a problem to sit

1 for an hour, hour and a half, two hours at a time?

2 MS. FLETCHER: Yeah, I'm getting my body
3 readjusted right now, my hips and pelvis, so I
4 wanted to let you know that.

5 JUDGE SUTHERLAND: Any questions?

6 MR. PARKS: No questions.

7 MR. EASTWOOD: No questions.

8 JUDGE SUTHERLAND: Ms. Bates.

9 (WHEREUPON MS. BATES APPROACHED THE BENCH)

10 JUDGE SUTHERLAND: What was it that you had?

11 MS. BATES: Well, we were speaking about
12 family members that had run-ins with the law, and I
13 recently had my youngest son, he was charged with a
14 felony, ended up being it was reduced to a
15 misdemeanor. It was for invasion of privacy in St.
16 Louis County, and he didn't serve any jail time but
17 he is on two years probation and that kind of thing,
18 and it was a little harsh, I thought it was a little
19 harsh punishment for what it was for, but it wasn't
20 the jury that imposed that, it was a judge.

21 MR. PARKS: Is there anything about that
22 that would keep you from being fair and impartial,
23 could you set that aside?

24 MS. BATES: I could set that aside but I
25 guess in a little part of the back of my mind I

1 thought the punishment was strong. So I don't know
2 how much that would -- I'm not saying that that
3 would necessarily affect my discussion of the
4 punishment.

5 MR. PARKS: Would it affect your ability to
6 render a fair and impartial verdict as to guilt or
7 innocence?

8 MS. BATES: No.

9 MR. PARKS: Could you then consider the
10 entire range of punishment?

11 MS. BATES: Yes, I could consider the entire
12 range of punishment.

13 MR. PARKS: And you could put away what
14 happened to your son while you considered that
15 entire range?

16 MS. BATES: Yes.

17 MR. PARKS: No other questions, Your Honor.

18 MR. EASTWOOD: You would not treat a law
19 enforcement officer's testimony any differently?

20 MS. BATES: No, and his didn't have anything
21 to do with it, no, he was very pleasant.

22 MR. EASTWOOD: Your issue was with the
23 severity of the process?

24 JUDGE SUTHERLAND: It was that nasty judge.

25 MR. COMBS: But you're not going to believe

1 the officers' testimony any more than anyone else's?

2 MS. BATES: No, sir. Like I said, it was
3 the severity of the punishment.

4 (WHEREUPON MR. DEBONNAIRE APPROACHED THE BENCH)

5 JUDGE SUTHERLAND: Mr. Debonnaire, you
6 indicated to the bailiff at the first recess that
7 you had something you wanted to bring up.

8 MR. DEBONNAIRE: I'm sorry but you said it
9 was hypothetical. If he drew on the officer, I
10 couldn't sit there and truthfully judge him, anybody
11 that draws on a law enforcement officer. If that
12 comes out in court and I'm sitting over there and he
13 drew on the officer, there is no reason for that and
14 I can't forgive that. If that is the case, you
15 wouldn't want me on there. I'm sorry.

16 JUDGE SUTHERLAND: There's no wrong answers.

17 MR. PARKS: The question is if he's charged
18 with attempted assault of a law enforcement officer
19 and I prove all elements of that charge, would you
20 find him guilty?

21 MR. DEBONNAIRE: Under those circumstances,
22 yes, sir. As I stated, if you find all those facts,
23 if he had more than just like one or two doses, I
24 carry them here in my pocket, I carry them for
25 myself, I have many illnesses, so if that's all he's

1 got, I have no problem with that, but that drawing a
2 weapon on an officer, a clear officer, I can't live
3 with that.

4 MR. COMBS: So sir, could you sit here and
5 listen to the facts?

6 THE WITNESS: Yes, sir, I can listen as well
7 as anyone else, sir. And if you can prove to me
8 that there was some kind of justification, although
9 I'm sorry, I just don't see it, a guy with a badge
10 is a guy with a badge and I just do what he tells
11 me, whether I agree with him or not, whether he's
12 wrong or not.

13 MR. COMBS: So you would be more likely to
14 believe a police officer's testimony?

15 MR. DEBONNAIRE: Yeah, that's just the way I
16 was raised. I'm sure there's many reasons, like I
17 said, I know there are circumstances and I would be
18 willing to listen to them, but as I said, I don't
19 know, I'd have to ask the judge how would you --
20 would you want me to think, I've never been in this
21 position. I'm a child of the Clayton war era.

22 JUDGE SUTHERLAND: I am too, I'm older than
23 you are. I saw plenty of the Lone Ranger.

24 MR. DEBONNAIRE: And I'm a citizen of the
25 United States, and that's his job to tell me whether

1 I screwed up big time or not.

2 MR. PARKS: The question is can you listen
3 to the evidence, can you render a fair and impartial
4 verdict based only upon the evidence?

5 MR. DEBONNAIRE: Only on the facts, yes,
6 sir, that you or these gentlemen instruct me to
7 believe, and I trust you to give me the truth.

8 JUDGE SUTHERLAND: I'm not necessarily the
9 fountain of truth for the world. I'm just the
10 umpire.

11 MR. DEBONNAIRE: Well, I'll be watching your
12 face. I try to be a reasonable man because should I
13 ever be in a situation like this, I would want to --
14 hopefully someone would be fair with me.

15 JUDGE SUTHERLAND: Any other questions?

16 MR. PARKS: No, sir.

17 MR. EASTWOOD: No, sir.

18 MR. COMBS: Thank you, sir. I appreciate
19 it.

20 JUDGE SUTHERLAND: Mr. Dziejma.

21 (WHEREUPON MR. DZIEJMA APPROACHED THE BENCH)

22 MR. DZIEJMA: In the interest of disclosure,
23 I'm a retired State employee, and I worked for Troop
24 C from 1998 to about 2002, so I worked under Captain
25 Johnson, and then I think it was probably 2004 or

1 2005 after I left employment, I actually testified
2 against the State, against the Highway Patrol in a
3 civil lawsuit.

4 MR. EASTWOOD: You've been on both sides?

5 MR. DZIEJMA: I've been on both sides. The
6 truth is the truth.

7 JUDGE SUTHERLAND: Do you know any of the
8 officers?

9 MR. DZIEJMA: They don't look familiar.
10 Maybe our paths crossed at a meeting or something
11 but no.

12 JUDGE SUTHERLAND: What was your capacity?

13 MR. DZIEJMA: I was a brown shirt uniform.

14 MR. COMBS: As law enforcement, you said you
15 would be more likely to believe a police officer
16 than a typical citizen?

17 MR. DZIEJMA: I am a police officer now.

18 MR. COMBS: You would give more credibility
19 to a police officer?

20 MR. DZIEJMA: I would have a tendency to
21 probably do that, sure. If I'm given 50/50 and who
22 are you going to believe, I'm going to choose the
23 cop.

24 MR. PARKS: But you're going to be fair and
25 impartial?

1 MR. DZIEJMA: As far as the factual evidence
2 that appears, that's fair and impartial, but if
3 you're telling me one word against the other word.

4 MR. COMBS: You're going to take the police
5 officer's?

6 MR. DZIEJMA: All he has is his credibility.

7 JUDGE SUTHERLAND: Thank you, sir.
8 Challenges for cause on behalf of the State.

9 MR. PARKS: No. 7, Katherine Fletcher. No.
10 1, I don't know where she lives, putting everything
11 else aside.

12 JUDGE SUTHERLAND: Any objection to
13 Ms. Fletcher?

14 MR. EASTWOOD: No, with the back issue,
15 that's not --

16 JUDGE SUTHERLAND: The residency issue, the
17 promoting prostitution. The challenge to juror No.
18 7, Katherine Fletcher, full cause is granted.

19 MR. EASTWOOD: That's a prosecution, Judge.

20 MR. PARKS: No. 19, John Hatcher, he's the
21 one that thinks marijuana should be legal.

22 MR. EASTWOOD: That's 22.

23 JUDGE SUTHERLAND: Hatcher wanted to
24 legalize drugs.

25 MR. PARKS: He wanted to legalize all drugs.

1 MR. EASTWOOD: I would object to that.
2 That's a policy point of view and that's a fair
3 point of view to have. I rehabilitated him several
4 times by saying he could be fair and impartial.

5 JUDGE SUTHERLAND: We have plenty of jurors,
6 he needs to move to Washington or Colorado or
7 California or something. The challenge to juror No.
8 19, John Colin Hatcher, for cause is granted.

9 MR. PARKS: No. 22, Mr. Haslag, he said he
10 has a doctor's appointment tomorrow.

11 JUDGE SUTHERLAND: I think he was a little
12 reluctant when you asked if he could reschedule.

13 MR. PARKS: He said it took him a while to
14 reschedule it.

15 MR. EASTWOOD: I have no objection to that,
16 Your Honor.

17 JUDGE SUTHERLAND: He's related to a
18 St. Clair police officer as well and indicated that
19 might be a problem. Challenge to juror 22, Kevin
20 Gerard Haslag, for cause is granted.

21 MR. PARKS: No. 23, Isaac Gregg, does not
22 believe that marijuana should be illegal, and when I
23 asked him he said he could not follow the
24 instruction given by the Court.

25 MR. EASTWOOD: I think I did rehabilitate

1 him to the extent that he said if the punishment was
2 no punishment, he could give it.

3 MR. COMBS: Which it is because it's a
4 misdemeanor.

5 MR. PARKS: There's no such thing as no
6 punishment.

7 JUDGE SUTHERLAND: Challenge to juror No.
8 23, Isaac J. Gregg, for cause is granted.

9 MR. PARKS: No. 44, Billy Parker, he's a
10 frequent flyer. He's set for jury trial in two
11 weeks on a felony charge.

12 JUDGE SUTHERLAND: He's got eight felonies.

13 MR. COMBS: He looked pretty proud.

14 JUDGE SUTHERLAND: Challenge to juror 44,
15 Billy C. Parker, for cause is granted.

16 MR. PARKS: No. 34, Bridgett Nowlin, she
17 said she had to go in to get stitches removed
18 tomorrow after surgery.

19 JUDGE SUTHERLAND: I'm with her, I got some
20 out last Wednesday in my head, so I don't have any
21 problem with that. Do you have any problems with
22 that, 34?

23 MR. EASTWOOD: I don't think that's
24 necessarily -- she said she could get them out
25 later.

1 MR. COMBS: It's a matter of 48 hours.

2 MR. PARKS: She said she could call the
3 doctor.

4 MR. COMBS: Stitches dissolve these days.

5 JUDGE SUTHERLAND: Not all of them. I'll
6 deny that. With agreement I'd grant it but she can
7 put that off a couple of days.

8 MR. PARKS: She also has a felony forgery
9 charge that she did not disclose, Your Honor.

10 JUDGE SUTHERLAND: A conviction?

11 MR. PARKS: She's been arrested with two
12 felony charges. It's on her criminal history but
13 the charges, it doesn't tell whether they have
14 been --

15 MR. COMBS: She admitted to them. She
16 didn't describe what they were but she did admit to
17 being charged with two felonies when we asked.

18 MR. PARKS: I think under the circumstances,
19 she ought to be --

20 JUDGE SUTHERLAND: Yeah, I changed my mind,
21 challenge to juror 34, Bridgett Renee Nowlin, for
22 cause is also granted. I'm not sure she would have
23 been reached anyway.

24 MR. PARKS: And then No. 6, Paulette Buhr.

25 JUDGE SUTHERLAND: Reason?

1 MR. PARKS: She just had a recent DWI within
2 a year. Her brother is in prison and she said -- I
3 believe she stated she couldn't put that aside.
4 She's the one with the leather jacket there.

5 MR. EASTWOOD: My notes, Your Honor, don't
6 indicate that she has a problem putting that aside.
7 I think she also said she was treated fairly in her
8 DWI.

9 JUDGE SUTHERLAND: Yeah, my notes indicate
10 that she didn't have a problem with that either.

11 MR. COMBS: Same notes, Your Honor.

12 JUDGE SUTHERLAND: Challenge to juror No. 6,
13 Paulette M. Buhr, for cause is denied.

14 MR. PARKS: That's all I have, Your Honor.

15 JUDGE SUTHERLAND: Challenges for cause on
16 behalf of defendant?

17 MR. EASTWOOD: I believe juror No. 4,
18 Mr. Suntrup, testified that he would always believe
19 a law enforcement officer.

20 JUDGE SUTHERLAND: Yes.

21 MR. PARKS: But he said he could be fair and
22 impartial.

23 JUDGE SUTHERLAND: He also said if there
24 were one or two stories, he's going to believe the
25 cop. So the challenge to juror No. 4, Robert A.

1 Suntrup for cause is granted.

2 MR. COMBS: Juror No. 9, Sharon Dubuque,
3 she's got something with a felony. She said the
4 cops were fair but I know there's a handful of
5 people that know the case, I don't know how you plan
6 on handling that.

7 JUDGE SUTHERLAND: Just having seen, read or
8 heard a media report, even multiple, doesn't
9 disqualify a person. The question is whether they
10 made up their mind or they're biased for or against
11 one side and nobody indicated that.

12 MR. EASTWOOD: I have 10, she admitted that
13 she would believe a police officer more than the
14 typical person. She said she had many friends in
15 law enforcement.

16 MR. PARKS: But she said she could be fair
17 and impartial and set that aside.

18 JUDGE SUTHERLAND: Challenge to juror No.
19 10, Luisa Sensenbrenner, is denied.

20 MR. EASTWOOD: Certainly 12 who knows your
21 daughter wouldn't be fair.

22 MR. PARKS: She said she knew law
23 enforcement.

24 MR. COMBS: The one that knows your daughter
25 and that you know.

1 MR. PARKS: I don't know them, she knows my
2 daughter. She's from New Haven and my daughter is a
3 police officer in New Haven.

4 MR. COMBS: So she's friends with law
5 enforcement who is the prosecutor's daughter in a
6 case.

7 JUDGE SUTHERLAND: That's a little iffy but
8 I think I'll grant it. She's the one whose grandson
9 is going into drug court as soon as he gets out of
10 treatment. Challenge to juror No. 12, Frieda
11 Lorraine Terschluse, for cause is granted.

12 MR. COMBS: No. 15, she didn't even know
13 that it was a law that you could carry an open
14 weapon. She said she didn't believe it or know it
15 was a law, so if she can't be directed to follow the
16 law, that's the pinnacle issue in this case.

17 MR. PARKS: She never said she couldn't
18 follow it, she said she didn't know that was the
19 law.

20 MR. COMBS: She said she didn't like guns or
21 didn't agree people should be allowed to carry a
22 gun.

23 JUDGE SUTHERLAND: There's a lot of people
24 that don't like them.

25 MR. COMBS: She seems pretty prejudicial

1 when that's the pinnacle issue to the most serious
2 charges in our case.

3 MR. PARKS: Carrying the gun is not the
4 problem, using the gun is the problem.

5 JUDGE SUTHERLAND: I don't think anything
6 she says disqualifies her from this case. Challenge
7 to 15, Arlys Dayton, is denied.

8 MR. COMBS: How about No. 18, Ms. Bates who
9 came up and spoke with us. It seemed like you agree
10 with me, if you need an explanation I can give one.

11 JUDGE SUTHERLAND: The big note I have with
12 Ms. Bates is she indicated there's "something
13 missing", quote, if the defendant doesn't testify.
14 So challenge to juror No. 18, Loren C. Bates, for
15 cause is granted.

16 MR. COMBS: Jumping ahead but to get this
17 out of the way I think that Mr. Dziejma, he was law
18 enforcement.

19 JUDGE SUTHERLAND: No. 30.

20 MR. PARKS: Your Honor, he said he could be
21 fair and impartial. He was truthful with the Court
22 and said that he would balance the testimony from
23 the witness stand and make a decision.

24 MR. COMBS: But --

25 JUDGE SUTHERLAND: The challenge is well

1 taken. Challenge to juror No. 30, Kevin M. Dziejma,
2 is granted.

3 MR. COMBS: No. 38, Your Honor, was the
4 woman who had a cousin who works for the Sheriff's
5 Department, lived by the gas station, said she felt
6 personally involved in the case.

7 MR. PARKS: That was 27.

8 JUDGE SUTHERLAND: 27 was her mother that
9 lived by the gas station. 38 was the one that said
10 her office was closed.

11 MR. PARKS: 38 lives (sic) in Jefferson
12 County. So when Jefferson County courthouse was
13 shut down --

14 JUDGE SUTHERLAND: She lives in Jefferson
15 County?

16 MR. PARKS: No, she works in the Jefferson
17 County Courthouse, lives in Franklin.

18 MR. COMBS: Her cousin also works for the
19 sheriff's department.

20 JUDGE SUTHERLAND: When the courthouse was
21 closed, was that as a result of this?

22 MR. PARKS: Yes.

23 JUDGE SUTHERLAND: Challenge to 38, Melissa
24 B. Scheer, for cause is granted.

25 MR. COMBS: And then 32, that gentleman, he

1 doesn't seem mentally stable, that's the gentleman
2 that came up in tears. I don't think he's capable
3 of sitting on this trial, I really don't. I think
4 that that's -- I really don't think he's mentally
5 stable.

6 MR. PARKS: I don't have any reason to doubt
7 that he's not stable, but I don't think that it's a
8 cause to strike.

9 JUDGE SUTHERLAND: I don't know about
10 stable, he's wishy washy.

11 MR. COMBS: That was a wrong choice of
12 words, I apologize. He was a very nice man but it
13 would be taxing on him when he said he had health
14 problems. I don't think he would be a suitable
15 juror.

16 JUDGE SUTHERLAND: I'm not buying that one.

17 MR. EASTWOOD: He did say he would listen to
18 a cop more -- he said he was brought up to listen to
19 a policeman over someone else.

20 MR. COMBS: And a judge.

21 JUDGE SUTHERLAND: Challenge to juror 32,
22 John M. Debonnaire, for cause is denied. It's an
23 interesting name. Any other challenges for cause?

24 MR. EASTWOOD: We're getting to the high
25 numbers here, so they're probably moot.

1 MR. COMBS: That was 51, son is in jail in
2 Franklin County. I have that she said she would
3 have trouble being unbiased. Her son is serving in
4 jail in the county where this case is being tried.

5 MR. PARKS: I don't have anything negative
6 about her. She said that her son was charged here
7 but she could put that aside and render a fair and
8 impartial --

9 JUDGE SUTHERLAND: I think she did too. I
10 don't think she's going to be needed. Challenge to
11 juror 51, Michelle Kay Tuttle, for cause is denied.
12 So we need 24 for the first 12. I believe that
13 would take us just through Mr. Debonnaire, No. 32.
14 Anybody disagree with that? So draw the line there
15 after Mr. Debonnaire. First 12 will be stricken,
16 six each from those and then we'll take the next
17 three, which would be 32, 35 and 36 for the
18 alternate and each of you gets one strike.

19 MR. EASTWOOD: I'm sorry, perhaps I
20 misheard, it's 33, 35 and 36?

21 JUDGE SUTHERLAND: 34 was stricken for
22 cause.

23 MR. EASTWOOD: And we get one strike there.

24 JUDGE SUTHERLAND: So I will mark the rest
25 of them as not needed. Okay, Mr. Parks gets his

1 first, he'll give you the master list when he's
2 finished, and when you're done, give it to the clerk
3 and we'll get them in here. I don't want to swear
4 them in until after lunch.

5 MR. EASTWOOD: Your Honor, I think I should
6 bring it to the court's awareness. I was passed a
7 note that juror No. 31, Mr. Brendel, had -- I was
8 passed this note by the defendant's ex-wife. Mr.
9 Brendel was posting comments about this case on
10 Facebook. I obviously have not verified that. I
11 inquired of him about it and he denied it, so I
12 can't prove that he's wrong, juror 31. I just bring
13 that to the Court's attention for the record because
14 it's an unverified allegation. I have no reason to
15 doubt, however, that the allegation is false either.

16 JUDGE SUTHERLAND: If we can come up with
17 something but they haven't been able to run that
18 down. He's working under some other phoney baloney
19 name.

20 MR. COMBS: There would be no way to prove
21 or disprove it probably.

22 JUDGE SUTHERLAND: We'll let it ride for
23 now.

24 (WHEREUPON A BRIEF RECESS TOOK PLACE)

25 JUDGE SUTHERLAND: Trial jury is picked,

1 let's bring them in, seat them and discharge the
2 rest of the folks and then we'll go to lunch.

3 (WHEREUPON THE JURY PANEL ENTERED THE COURTROOM)

4 JUDGE SUTHERLAND: Ladies and gentlemen,
5 those of you who were not selected for the trial
6 jury today, also known as the people in the back,
7 all you over here know what your fate for the next
8 couple of days. You'll be excused in a minute. In
9 the event you need a written excuse for some kind
10 for work because you were on jury service today, you
11 can pick that up at the Circuit Clerk's office on
12 the first floor on your way out. I want to thank
13 you for making yourselves available for jury
14 service. I understand your term of potential jury
15 service lasts until the end of December, so you're
16 stuck until the end of the year. I'm not from
17 Franklin County, but if Franklin County is like
18 every other circuit in the State, there's not going
19 to be any trials between Christmas and New Years, so
20 you don't have to worry about that a whole lot.
21 Nobody wants to aggravate potential jurors in the
22 holiday season. If any of you wish to stay and
23 watch all or part of the trial, you can do so. It's
24 your courtroom and tax dollars that pay for this
25 place, and you can stay if you wish to do so, but

1 with that you are excused and free to go.

2 (WHEREUPON THE EXCUSED JURORS EXITED THE COURTROOM)

3 JUDGE SUTHERLAND: Ladies and gentlemen of
4 the trial jury, we're going to eat lunch. Let me
5 just say that if you need to contact anybody, pick
6 up a child from school or tell somebody you're going
7 to be late for a meeting or late afternoon,
8 something like that, you can certainly do that, not
9 a problem. You'll be free to go wherever you want
10 for lunch today. The next couple of days, assuming
11 we're still going on Thursday, which I have a
12 feeling we will be, we'll give you a captive lunch
13 in the jury room at lunch, but today we're not
14 prepared for that. So you're free to go anywhere
15 you want for lunch. If you live close by and you
16 can go home for lunch, that's fine, but we're going
17 to recess for an hour. So I need you to get back in
18 the jury room as quickly as possible so we can get
19 going on time.

20 The Court again reminds you of what you were
21 told at the first recess of the Court. Until you
22 retire to consider your verdict, you must not
23 discuss this case among yourselves or with others or
24 permit anyone to discuss it in your hearing. You
25 should not form or express any opinion about the

1 case until it is finally given to you to decide. Do
2 not do any research or investigation on your own
3 about any matter regarding this case or anyone
4 involved in the trial. Do not communicate with
5 others about the case by any means. Do not read,
6 view or listen to any newspaper, radio or electronic
7 communication from the Internet or television report
8 of the trial. That's the official instruction that
9 I have to read. I want to give you my own
10 unofficial instruction. When you go out to lunch,
11 you'll go home this evening, wherever you need to go
12 if it's not home and somebody, you'll see somebody
13 you know or relative, somebody is home, how are you
14 doing, what are you doing today, well I'm on this
15 jury. And they may something like oh, is it an
16 interesting case, tell me all about it. What I need
17 you to do is say I'm sorry, the Judge told me I
18 can't talk about the case until it's all over with.
19 When it's over, I'll give you a call or see you at
20 home or church, see you at school, whatever it may
21 be and I'll tell you all about it, but I just can't
22 talk about it now. If you can do that, we won't
23 have any problems. It's just after 1 o'clock, so
24 let's say we'll be in recess until five minutes
25 after 2:00 for lunch.

1 MS. LAUBINGER: We have children, so how
2 late will this usually run?

3 JUDGE SUTHERLAND: We'll probably go today
4 to somewhere around 5 o'clock, give or take a little
5 bit, just depends on where we are with the witnesses
6 and evidence, but let's call it 5 o'clock give or
7 take a little bit. We're in recess until 2:05.

8 (WHEREUPON A LUNCHEON RECESS TOOK PLACE)

9 JUDGE SUTHERLAND: Are we ready to bring the
10 jury in?

11 MR. PARKS: State is ready.

12 MR. EASTWOOD: Defense is ready.

13 (WHEREUPON THE JURY ENTERED THE COURTROOM)

14 JUDGE SUTHERLAND: Ladies and gentlemen of
15 the jury, I'd ask you at this time, I didn't have a
16 chance to tell you to stand up because you haven't
17 sat down yet. If you'd raise your right hand to be
18 sworn as a trial jury in this case.

19 (WHEREUPON THE JURY WAS SWORN IN)

20 JUDGE SUTHERLAND: This case will proceed in
21 the following order. First the Court will read to
22 you two instructions concerning the law applicable
23 to this case and its trial. Next the attorney for
24 the State must make an opening statement outlining
25 what he expects the State's evidence will be. The

1 attorney for the defendant is not required to make
2 an opening statement then or at any other time;
3 however, if he chooses to do so, he may make an
4 opening statement after that of the State or he may
5 reserve his opening statement until the conclusion
6 of the State's evidence. Evidence will then be
7 introduced. At the conclusion of all of the
8 evidence, further instructions in writing concerning
9 the law will be read to you by the Court, after
10 which the attorneys may make their arguments. You
11 will then be given the written instructions of the
12 Court to take with you to your jury room. You will
13 go to that room, select a floor person, deliberate
14 and arrive at your verdict. If you find the
15 defendant guilty in the first stage of the trial, a
16 second stage of the trial will be held. During the
17 second stage, additional instructions will be read
18 to you by the Court, additional evidence may be
19 presented and the attorneys will make their
20 arguments as to punishment. With the additional
21 instructions of the Court, you will return to the
22 jury room to deliberate and determine the punishment
23 to be assessed. Sometimes there are delays or
24 conferences out of your hearing with the attorneys
25 about matters of law. There are good reasons for

1 these delays and conferences. The Court is
2 confident that you will be patient and
3 understanding. We will have recesses from time to
4 time.

5 The following two instructions of law are for
6 your guidance in this case. The two of them, along
7 with other instructions in writing read to you at
8 the close of all the evidence, will be handed to you
9 at that time to take to your jury room. Instruction
10 No. 1, those who participate in a jury trial must do
11 so in accordance with established rules. This is
12 true of the parties, the witnesses, the lawyers and
13 the judge. It is equally true of jurors. It is the
14 Court's duty to enforce those rules and to instruct
15 you upon the law applicable to this case. It is
16 your duty to follow the law as the Court gives it to
17 you; however, no statement, ruling or remark that I
18 may make during the trial is intended to indicate my
19 opinion of what the facts are. It is your duty to
20 determine the facts and to determine them only from
21 the evidence and the reasonable inferences to be
22 drawn from the evidence. In your determination of
23 the facts, you alone must decide upon the
24 believability of the witnesses and the weight and
25 value of the evidence in determining the

1 believability of a witness and the weight to be
2 given to testimony of the witness. You may take
3 into consideration the witness' manner of all
4 testifying, the ability and opportunity of the
5 witness to observe and remember any matter about
6 which testimony is given and the interest, bias or
7 prejudice the witness may have; the reasonableness
8 of the witness' testimony considered in the light of
9 all of the evidence in the case and any other matter
10 that has a tendency in reason to prove or disprove
11 the truthfulness of the testimony of the witness.
12 It is important for you to understand that this case
13 must be decided only by the evidence presented and
14 the proceedings in this courtroom and the
15 instructions I give you. The reason for this is
16 that the evidence presented in Court is reviewed by
17 the lawyers and Court, and the lawyers have an
18 opportunity to comment on or dispute evidence
19 presented in Court. If you obtain information from
20 other places, the lawyers do not have the
21 opportunity to comment on or dispute it. Fairness
22 in our system of justice requires giving both sides
23 the opportunity to view and comment on all evidence
24 in the case. It is unfair to the parties if you
25 obtain information about the case outside this

1 courtroom; therefore, you should not visit the scene
2 of any of the incidents described in this case, nor
3 should you conduct your own research or
4 investigation. For example, you should not conduct
5 any independent research of any type by reference to
6 textbooks, dictionaries, magazines, the Internet, a
7 person you consider to be knowledgeable or any other
8 means about any issue in this case or any witnesses,
9 parties, lawyers, medical or scientific terminology
10 or evidence that is in any way involved in this
11 trial. You should not communicate, use a cell
12 phone, record, photograph, video, email, blog,
13 tweet, text or post anything about this trial or
14 your thoughts or opinions about any issue in this
15 case to any person. This prohibition on
16 communication about this trial includes use of the
17 Internet, websites such as Facebook, Myspace,
18 Twitter or any other personal or public website.
19 Faithful performance by you of your duty as jurors
20 is vital to the administration of justice. You
21 should perform your duties without prejudice or fear
22 and solely from a fair and impartial consideration
23 of the whole case. Do not make up your mind during
24 the trial about what the verdict should be. Keep an
25 open mind until you have heard all the evidence and

1 the case is given to you to decide.

2 Instruction No. 2, you must not assume as true
3 any fact solely because it is included in or
4 suggested by a question asked of a witness. A
5 question is not evidence and may be considered only
6 as it supplies meaning to the answer. From time to
7 time the attorneys may make objections. They have a
8 right to do so and are only doing their duty as they
9 see it. You should draw no inferences from the fact
10 that an objection has been made. If the Court
11 sustains an objection to a question, you will
12 disregard the entire question and you should not
13 speculate as to what the answer of the witness might
14 have been. The same applies to exhibits offered but
15 excluded from the evidence after an objection has
16 been sustained. You will also disregard any answer
17 or other matter in which the Court directs you not
18 to consider or anything the Court requires stricken
19 from the record. The opening statements of
20 attorneys are not evidence. You must not consider
21 as evidence any statement, remark or argument by any
22 attorney addressed to another attorney or to the
23 Court; however, the attorneys may enter into
24 agreements or stipulations of fact. These
25 agreements and stipulations become part of the

1 evidence and are to be considered by you as such.

2 Opening statement on behalf of the State.

3 **(OPENING STATEMENT ON BEHALF OF THE STATE)**

4 MR. PARKS: Thank you, Your Honor. In
5 August of 2012, Sergeant Folsom received a call from
6 Judge Parker, who is a presiding judge in Crawford
7 County. Judge Parker asked Sergeant Folsom to
8 investigate a harassing You Tube video that had been
9 put up that Judge Parker had felt was a threat to
10 him. So, Sergeant Folsom will tell you that he came
11 up, he got a copy of the video, he looked at the
12 video and he started his investigation. He started
13 his investigation in Crawford County because the
14 defendant was running for coroner in Crawford
15 County, and it was believed since he was running for
16 office in Crawford County, he lived in Crawford
17 County. Sergeant Folsom will tell you that he
18 checked to see what effect this video had had on the
19 Court system and the judicial system and the police
20 system in Crawford County. He then began to do the
21 investigation. He went to the house where the
22 defendant listed his address in his campaign filings
23 and couldn't find him. They then ran a license
24 check of a car that people had seen the defendant
25 driving and that car came back registered to a woman

1 who lived in Piney Park here in Franklin County.
2 And so Sergeant Folsom and Corporal Mertens with the
3 Highway Patrol went to Piney Park to talk to the
4 defendant. When they arrived at Piney Park, they
5 knocked on the door, defendant came to the door,
6 they recognized him from the You Tube video.
7 Sergeant Folsom was on the steps and he'll tell you
8 there's bushes, it's a narrow step, but when the
9 defendant opened the door and came out and closed
10 the door behind him very quickly, Sergeant Folsom
11 will tell you he smelled the odor of marijuana.
12 They asked the defendant if they could move over to
13 the driveway because of the small size of the porch,
14 which the defendant readily agreed to do. They
15 began to talk to him about the You Tube video. He
16 admitted making the You Tube video, and they had
17 about a 20 or 30 minute conversation about the
18 contents of the You Tube video. At this time the
19 defendant turned to go back into the house.
20 Sergeant Folsom told him, "I'm sorry, you can't go
21 back in. Can we have permission to search your
22 house? We smell marijuana. Will you open the
23 door?" And the defendant said no.

24 And so, Sergeant Folsom will tell you that he
25 came, applied for and was granted a search warrant

1 to go back and search the house at Piney Park. That
2 when he got there, he and Corporal Mertens went in
3 to search the house. He'll tell you that in the
4 upstairs drawer they find a nine millimeter pistol
5 in an Army style holster. That they went downstairs
6 and they found what the defendant had called his
7 command center, and this is the area where he had
8 made the You Tube broadcast. And in searching the
9 area of the command center, as the defendant called
10 it, they found in a Camel snuff tin a pill and a
11 half, which when sent to the lab, the lab personnel
12 will tell you these pills tested positive for
13 Morphine. They will also tell you that they
14 continued to search, they found other drug
15 paraphernalia, and just outside of the door of the
16 command center on a bag up on top of a high shelf
17 they found a bag containing marijuana. They seized
18 this evidence, they sent it to the lab, they seized
19 the defendant's computer to check and see if there
20 was anymore threatening emails or videos or anything
21 on there, and they will tell you that this is the
22 normal practice that normally these items,
23 especially drug items, need to be sent off to the
24 lab before they can be -- before we charge anybody
25 with a crime.

1 Sergeant Folsom will tell you that in the
2 video, and you will see the video, the defendant had
3 given until September 17th for Judge Parker and
4 other officials in Crawford County to vacate their
5 office. If they did not vacate their office by
6 September 17th, that the defendant and his followers
7 would come, would forcibly remove them from office,
8 would try them in a peoples Court and hang them for
9 treason. This worried the people in Crawford
10 County, and this worried the people in the Highway
11 Patrol. So it was decided that before September
12 17th, Sergeant Folsom and Corporal Mertens would
13 place defendant under arrest for threatening a
14 judicial official, for the possession of the illegal
15 Morphine and for possession of the marijuana.

16 They did not want to go back to the defendant's
17 house, because as they told you, it wasn't a very
18 easy place to access, especially through the front
19 door, so they devised a ruse. The defendant had
20 been asking for the return of a computer, so
21 Sergeant Folsom called the defendant and said hey,
22 we've got your computers. And Sergeant Folsom will
23 tell you that the defendant said fine, I want to
24 meet you at a public place. And so it was decided
25 at the MFA station on Highway K in Franklin County

1 on September 11th, 2012 the two parties would meet
2 the Highway Patrol there with the intention of
3 taking defendant into custody, the defendant going
4 with the intention of receiving his computers.

5 Sergeant Folsom and Corporal Mertens will tell
6 you that they arrived and had picked this place
7 because there wasn't much traffic there. They'd
8 also brought two Highway Patrol agents from Rolla to
9 help them to secure the scene, and they had also two
10 uniformed troopers in cars at either end of Highway
11 K in case the defendant ran, they had cars to try to
12 stop him, and it was their intention to take the
13 defendant under arrest when he showed up to pick up
14 his computers. And they will testify to you that
15 they weren't expecting any trouble from the
16 defendant. They hadn't had any trouble with him in
17 the past, and they will tell you they didn't have
18 their ballistic vests on. They had their detective
19 weapons, which are service weapons but with small
20 capacity magazines. They didn't get their high
21 capacity pistols out of the car. They didn't get
22 their shotguns or AR-15 rifles because they weren't
23 expecting any trouble from the defendant. And they
24 will tell you that they were parked on the parking
25 lot back away when the defendant came in, made a

1 very high rate of speed turn. While he was turning,
2 they thought he was going to strike their car.
3 Before he stopped, he unhooked his seat belt and got
4 out of the car. And there was an exchange between
5 the troopers and the defendant because Sergeant
6 Folsom will testify when defendant got out of the
7 car, he had an Army type holster with a pistol in
8 that holster. And there was an exchange between the
9 two. Sergeant Folsom will tell you he told him what
10 are you doing with that gun, and the defendant will
11 say what are you doing with that gun. And Sergeant
12 Folsom will tell you at this time the defendant had
13 unhooked the flap, put his hand under the flap, put
14 his hand on the pistol and started to remove the
15 pistol from the holster, at which time the defendant
16 said, "You're going to have to shoot me, man", and
17 he was. Sergeant Folsom and Corporal Mertens opened
18 fire striking the defendant twice in the chest, once
19 in the neck and once in the head. The defendant is
20 charged with making the threats of the judicial
21 officers, he's charged with possession of Morphine,
22 charged with possession of the marijuana, charged
23 with the assault of the two law enforcement officers
24 by trying to draw his weapon to shoot them. He's
25 charged with armed criminal action for the use of

1 that weapon, and he's charged with resisting arrest
2 of the arrest that the two officers were trying to
3 do.

4 There's one other interesting fact about this
5 case. Unbeknownst to anyone at the time, the
6 defendant was wearing a video/audio recording watch,
7 and we have the shooting recorded on the defendant's
8 watch, which you will be allowed to see. After
9 hearing the evidence presented by the State, the
10 State will ask you to find the defendant guilty of
11 all eight charges charged against him.

12 JUDGE SUTHERLAND: Any opening statement for
13 the defendant at this time?

14 MR. EASTWOOD: Yes, Your Honor. May I
15 proceed?

16 JUDGE SUTHERLAND: Yes.

17 **(OPENING STATEMENT ON BEHALF OF THE DEFENDANT)**

18 MR. EASTWOOD: May it please the Court,
19 Mr. Parks, members of the jury. Jeff Weinhaus for
20 many years has been a newspaper publisher and a
21 blogger, and he's not really known in Franklin
22 County, but the evidence will show that he is known
23 in Jefferson and Crawford County, and in fact he was
24 running for coroner of Crawford County. And Jeff
25 published a You Tube broadcast, had a channel on You

1 Tube called Bulletinman and he also published a
2 newspaper that ran ads distributed in gas stations
3 and places like that. And the spirit of this
4 publication that occurred over decades was a full
5 throated denouncement of official corruption,
6 corrupt elected officials, corrupt judges, in this
7 case Judge Kelly Parker who was a State rep who
8 became a judge and who Jeff believed to be corrupt
9 or made statements that indicated a belief that
10 Judge Parker came to the judgeship in a less than
11 entirely pure manner. And so what you're going to
12 see today, first up most likely, is a You Tube video
13 featuring Jeff. It's one of many Bulletinman
14 broadcasts, a user named Bulletinman posted on You
15 Tube. You Tube, I think most of you are familiar
16 with it, it's a video website owned by Google.
17 Anyone can access this material, it's free, it's on
18 the worldwide web, whether you have Internet at home
19 or go to the library, whatever, and you're going to
20 see two versions of this video. You're going to see
21 one that's just Jeff talking, and you're going to
22 see another one which has captions, You Tube calls
23 them annotations but most of us call those captions,
24 they're boxes of texts that pop-up on the screen
25 during times when Jeff is talking. You're never

1 even going to hear Jeff state Judge Kelly Parker's
2 name. You are going to hear him carry on for over
3 nine minutes in a video. It's pretty over the top.
4 Some of the things he says you may or may not agree
5 with. It's controversial political speech. At
6 times he's kind of funny too or he certainly has a
7 tongue in cheek manner. This is not a very, very
8 serious speech. This is a type of speech where you
9 might think he's at least getting people who agree
10 with him to laugh along with him. And remember,
11 it's America, we all have our different views and
12 you may or may not share Jeff's views. So the State
13 is going to show you two videos, one with these
14 annotations and one without the annotations. I
15 don't know if they're going to show you who added
16 the annotations.

17 The evidence will also show that Jeff didn't
18 have any cases before Judge Parker. It's not like
19 Judge Parker was sitting in judgment of him in a
20 criminal or civil trial or someone in his family or
21 life, one of his friends or something like that. So
22 the evidence will show there was nothing before the
23 judge in which Jeff was trying to influence the
24 judge. He was just criticizing the judge. Well, he
25 never mentions the judge by name but these

1 annotations do.

2 Now, Mr. Parks is right, Judge Parker contacted
3 the Highway Patrol. And two troopers who don't
4 normally patrol this area, they're from Rolla,
5 Sergeant Folsom, Corporal Mertens, came up to Piney
6 Park to a house where Jeff sometimes lived with his
7 wife and his son. And they did allegedly smell pot,
8 obtained a search warrant and they went through the
9 entire house, they ransacked the entire house, and
10 in the basement Mr. Parks called it a command
11 center, I'm going to call it what it is, which is a
12 basement, they found in this family house a small
13 quantity of pot and a tablet and a half of Morphine.
14 But the main thing they did that day is they seized
15 Jeff's computers. And if you're running for public
16 office, in this case coroner, and you make regular
17 You Tube videos, it's kind of a big deal if someone
18 seizes your computers because you can't make and
19 upload your videos to You Tube anymore. So Jeff was
20 angry, angry that his computers were taken. He felt
21 like it was a direct assault on his First Amendment
22 rights. It was pay back for criticizing the judge.
23 He was going to have his computers taken away, and
24 he filed what's called a writ of replevin, which is
25 basically an order to give it back with the Missouri

1 Supreme Court. The writ was rejected. He didn't
2 follow the right filing rules. Jeff is not a
3 lawyer, but the point is what he really wanted was
4 to get his computers back. And in fact, at some
5 point he started to make, I'm not sure which
6 computer, but he started making more videos and he
7 criticized Sergeant Folsom directly by name. And in
8 these You Tube podcasts, he'd call up the Highway
9 Patrol on the line and you might have heard on a
10 radio show or something kind of make fun of them and
11 make fun of Sergeant Folsom and attack him as
12 someone who was interfering with his First Amendment
13 rights. And he did something more than that, he
14 started emailing Sergeant Folsom directly saying who
15 is your lawyer going to be when I sue, I'm going to
16 sue you, sue you for a lot of money because you
17 interfered with my rights. You're trying to stifle
18 my free speech.

19 Sergeant Folsom, by the way, is the trooper who
20 later shot Jeff multiple times. He contacted
21 Sergeant Folsom through a social network service
22 called Google Circles, you may not have heard of it
23 because it's not nearly as popular as Facebook, but
24 it's out there and it's called Google Circles, and
25 he tried to friend request Sergeant Folsom through

1 Google Circles. And a few weeks after his computers
2 were seized, the troopers, Sergeant Folsom and
3 Corporal Mertens, called Jeff and said, "Hey, Jeff,
4 we're going to give you your computers back."

5 Now, in fact they weren't, they were lying to
6 him, this was all a ruse to serve an arrest warrant
7 on him, but the evidence will show that Jeff
8 believed them. He believed that he was getting his
9 computers back. And so although the troopers,
10 you'll hear, had gone to Jeff's house that morning,
11 instead they said let's meet at a neutral location.
12 They didn't say to Jeff, hey, why don't you come
13 down to the police station. They didn't say to
14 Jeff, hey, let's go to a secluded location. They
15 said to him let's meet at a gas station. Gas
16 station is a public place. You'll hear evidence
17 that there were delivery trucks there that day.
18 There were workmen working on a gutter repair job on
19 the MFA gas station building. You'll hear there was
20 a store clerk, customers. You'll also hear that
21 this was a place where Jeff was a regular customer.
22 His habit and custom every day was buying a soda and
23 a pack of cigarettes. By all accounts an easy going
24 guy. By all accounts that day was in a good state
25 of mind, a happy state of mind, maybe even a

1 jubilant state of mind, because in Jeff's mind he
2 won, he was getting his computers back. He won, he
3 criticized the judge, they kind of messed with him
4 taking his computers away but he was getting it
5 back.

6 So, Jeff went to meet the troopers at the gas
7 station. He drove his wife's Subaru, pulled into a
8 parking lot, it's on a slight hill, it's kind of
9 gravelly, it's not a smooth asphalt surface, it's
10 kind of a gravelly surface, and where the troopers
11 were stationed was on a slight incline. He drove
12 in, circled around and parked his Subaru in a way
13 that would be easy to unload the computers from the
14 troopers' car and load them into the back of his
15 Subaru, which would make sense. If you're going to
16 go pick up computer equipment, that's what you'd do.

17 Now, Jeff did have an open carry weapon on him.
18 You probably figured that out from this morning
19 where there was a lot of conversation about that,
20 okay, but Jeff did have an open carry weapon on him.
21 And he's not charged here today for unlawful
22 possession of that weapon. And you'll also hear
23 evidence that that weapon was in a special military
24 style holster, open carry military style holster.
25 It's the type of holster used by Army Rangers when

1 they jump out of airplanes. Basically it's really
2 difficult to open. The reason is when you jump out
3 of an airplane, you don't want your gun to fall out.
4 So it requires additional effort, additional force,
5 additional strength and a combination of movements
6 to open the holster at all. In other words this
7 isn't a situation where anyone could quickly draw a
8 weapon. It's not that type of situation. And you
9 will hear that Sergeant Folsom recognized that
10 holster. He knew, because he was a military
11 veteran, that that was this special type of holster
12 that was used when you jump out of an airplane or
13 whatnot and that it took a little more time and
14 effort to unlatch the holster and retrieve a weapon
15 out of that.

16 Now, the troopers did bring back-up that day.
17 They brought the FBI. Two FBI agents were stationed
18 way, way from the troopers, from Jeff at the other
19 end of the parking lot. But you'll also hear the
20 troopers didn't feel Jeff was particularly
21 dangerous. You'll hear they had vests with them
22 that day, bullet proof vests, they didn't wear them,
23 they were in plain clothes. Jeff knew them, of
24 course, but they were in plain clothes. I think
25 they were in golf polo type shirts. You'll see them

1 on the wrist watch video, and you will see that
2 wrist watch video because Jeff didn't trust those
3 troopers after what they had done to him. And
4 within seconds of exiting his wife's Subaru, Jeff's
5 fears were confirmed when after a calm exchange of
6 words Jeff was shot four times.

7 You will see the bullets coming out of Sergeant
8 Folsom's gun on this tape. And before that you will
9 hear Jeff ordered to get down on the ground. You
10 will see his left hand go up and then within less
11 than three seconds of the order to get down on the
12 ground, you will hear the first bullet fly out from
13 Sergeant Folsom's gun. And I suggest that the
14 evidence will show that Jeff was complying with the
15 order to get down on the ground. The evidence will
16 show from the angle at which the bullets entered his
17 body, the angle in which you were looking at the
18 shooter on the tape, this man was complying with the
19 order of the trooper to get down on the ground.

20 You will also hear from three people who have
21 no stake in this case, two were workmen, working men
22 repairing a gutter. You'll also hear from the store
23 clerk. They all saw the shooting, none of them saw
24 Jeff's hand on a gun. The only evidence you'll hear
25 of Jeff's hand on a gun were from the two troopers

1 who shot him, one of whom had been criticized by
2 Jeff pretty badly on the Internet and who ordered
3 him to get down on the ground and within three
4 seconds of that order shot him as he was getting
5 down on the ground. You'll see the video, you'll
6 see the wounds it caused. Jeff Weinhaus was air
7 medevaced, air lifted to St. John's Mercy Hospital
8 in St. Louis County, spent two months recovering in
9 the hospital. At the close of the evidence I'm
10 going to ask you to acquit Jeff, acquit Jeff because
11 the State cannot meet its burden of proving these
12 eight counts beyond a reasonable doubt. Thank you.

13 JUDGE SUTHERLAND: Evidence for the State.

14 MR. PARKS: Thank you, Your Honor. The
15 State calls Sergeant Folsom.

16 (WHEREUPON SERGEANT FOLSOM WAS SWORN IN)

17 **DIRECT EXAMINATION OF SERGEANT FOLSOM**

18 **QUESTIONS BY MR. PARKS:**

19 Q Please state your name for the record.

20 A Henry James Folsom.

21 Q You are a sergeant with the Missouri State
22 Highway Patrol; is that correct?

23 A Yes, sir.

24 Q And how long have you been with the Highway
25 Patrol?

1 A I've been with the Highway Patrol 16 plus
2 years.

3 Q And before that were you in the United
4 States Army?

5 A Yes, sir.

6 Q And what was your position in the United
7 States Army?

8 A In the Army I had several different
9 positions. I was a military policeman. I was
10 assigned to protection detail for another Department
11 of Defense agency, basically a body guard, and
12 finally I was a special agent for the United States
13 Army, Criminal Investigation Command, basically a
14 criminal investigator for the Army.

15 Q What is your assignment now?

16 A I'm a criminal investigator for the Highway
17 Patrol.

18 Q Where are you assigned to?

19 A I'm assigned out of Troop I Rolla Criminal
20 Investigation Unit.

21 Q Does Crawford County take in Troop I?

22 A Yes, sir.

23 Q Franklin County is in Troop C; is that
24 correct?

25 A Yes, sir.

1 Q The borderline between the two Highway
2 Patrol troops is the border between Franklin and
3 Crawford County?

4 A Yes, sir.

5 Q And have you had any firearms training?

6 A Yes, sir.

7 Q Have you taken the required classes through
8 the Missouri State Highway Patrol?

9 A Yes, sir.

10 Q And have you had any training in the
11 detection of marijuana?

12 A Yes, sir.

13 Q What training have you had?

14 A While I was assigned in the Army, I served
15 for a year as an undercover drug investigator.
16 During that time we did control burns from the
17 evidence room to certify and familiarize ourselves
18 with the smell of burnt marijuana.

19 Q So you are familiar with the smell of
20 marijuana?

21 A Yes, sir.

22 Q I direct your attention now to August 18 of
23 2012. Did you receive a telephone call from Judge
24 Kelly Parker?

25 A Yes, sir.

1 Q What was that phone call in regards to?

2 A It was in regards to a You Tube video that
3 had been posted by Jeffrey Weinhaus. They referred
4 to it as a pod cast in which he had allegedly
5 threatened some judicial officers.

6 Q Did Judge Parker ask you to investigate
7 this?

8 A Yes, sir. He stated he felt threatened by
9 it, as well as other members of the judicial office
10 there, and he asked for the Highway Patrol to
11 investigate.

12 Q And did you review these pod casts?

13 A Yes, sir, I did.

14 Q I show you at this time what has been marked
15 as State's Exhibit No. 1. Do you recognize this?

16 A Yes, sir, it is a copy of the pod cast made
17 concerning Jeffrey Weinhaus' video.

18 Q And I show you what has been marked as
19 State's Exhibit No. 1-A. Do you recognize this?

20 A Yes, sir. This is a copy of the pod cast
21 with the captions.

22 Q And have you viewed these two videos?

23 A Yes, sir, I have.

24 Q And are these two videos here in the same or
25 the same as the videos that you saw?

1 A Yes, sir.

2 MR. PARKS: Your Honor, at this time I would
3 move that State's Exhibits 1 and 1-A be admitted
4 into evidence.

5 MR. EASTWOOD: I would object, Your Honor.
6 I believe both these, as I previously briefed the
7 Court, both of these recordings are protected by the
8 First Amendment, and for those reasons, which the
9 Court has already been briefed on in writing, I
10 would object.

11 JUDGE SUTHERLAND: The objections are
12 overruled. State's Exhibits 1 and 1-A are admitted.

13 MR. PARKS: And I would ask permission to
14 play these for the jury at this time, Your Honor.

15 JUDGE SUTHERLAND: You may do so.

16 (WHEREUPON VIDEO WITHOUT CAPTIONS WAS PLAYED)

17 Q (By Mr. Parks) That is the first video that
18 you looked at during your investigation; is that
19 correct, Sergeant Folsom?

20 A Yes, sir, it is.

21 Q You then found another video with captions;
22 is that correct?

23 A Yes, sir, I did.

24 MR. EASTWOOD: Your Honor, for the record I
25 object to him playing this video as well for the

1 same reasons briefed to the Court, First Amendment
2 speech.

3 JUDGE SUTHERLAND: Objection overruled.

4 (WHEREUPON VIDEO WITH CAPTIONS WAS PLAYED)

5 Q (By Mr. Parks) Now Sergeant Folsom, after
6 you had seen the video, what did you do next?

7 A After I had seen the videos and had them
8 documented, I met with various law enforcement
9 officials from state, federal and county agencies to
10 try to look at the videos and determine the validity
11 of the threats being made on the videos.

12 Q And did you do an investigation in Crawford
13 County itself?

14 A Yes, at some point I did meet with Crawford
15 County officials.

16 Q And what did you find out was going on in
17 Crawford County?

18 A I discovered that of course they had
19 heightened their security due to some of these
20 threats, and reportedly Jeff Weinhaus had visited
21 the 911 dispatch center and had been frequenting the
22 courthouse and had put everyone on edge, and they
23 had taken some security precautions like locking the
24 911 center where he had entered a few days prior and
25 placing an armed guard inside the facility as well

1 as changing the way they entered the courtrooms and
2 their security.

3 Q After this investigation, was it -- what did
4 you do next in your investigation?

5 A After I met with the officials, at that
6 point it was determined that most of the things that
7 Mr. Weinhaus had said were under the free speech,
8 and at that point the decision was made that I would
9 contact him at his home and try to discuss with him
10 the video and see if he had actually intended to
11 harm anyone or himself and possibly was a danger to
12 anyone.

13 Q And did you and Corporal Mertens then
14 proceed to the defendant's home in Crawford County?

15 A We proceeded to several addresses in
16 Crawford County; however, we were not able to locate
17 him.

18 Q How did you locate the defendant?

19 A Eventually I had met with the sheriff of
20 Crawford County, Randy Martin, and he had given me a
21 cellular phone photograph picture of the vehicle
22 that Mr. Weinhaus was alleged to have driven. I
23 read the license plate, it came back to a green
24 Subaru registered to Judy Kropf, who was a resident
25 here in Franklin County.

1 Q That would be the Piney Park location?

2 A Yes, sir.

3 Q What did you do next?

4 A After checking the addresses in Crawford
5 County with no results, myself and Scott Mertens
6 started to drive towards Franklin County.

7 Q What happened?

8 A Eventually we came to Mr. Weinhaus'
9 residence there in Piney Park.

10 Q And what did you do when you came to the
11 residence?

12 A I went and knocked on the door, and
13 Mr. Weinhaus came to the door and opened the front
14 door. At the front door it was a really narrow
15 stairwell that was covered with bushes on both
16 sides. It was a really narrow front pad to step out
17 on, and the door swung outwards. So when he stepped
18 outside to speak to me on the door, we were in very
19 close proximity to each other, and at that point I
20 smelled the odor of marijuana.

21 Q Where did you smell this odor coming from?

22 A Mostly I smelled a very strong odor coming
23 from the house, and since we were standing there
24 almost face-to-face, I smelled the marijuana coming
25 from him also.

1 Q What did you do next?

2 A I asked him if it would be okay if we could
3 step down from the step, because we were basically
4 face-to-face, and he agreed and led us over to a
5 carport area that was adjacent to his house.

6 Q And Corporal Mertens was with you this
7 entire time but he wasn't standing up on the porch;
8 is that correct?

9 A No, there was only room for one person to go
10 up the stairs at a time, so he waited at the bottom
11 of the stairs.

12 Q When you and the defendant came down from
13 the stairs and went to the carport, what happened
14 next?

15 A We went to the carport where I began to
16 speak to Mr. Weinhaus. Of course when I knocked on
17 the door, I informed him the reason why I came to
18 speak to him was about the video and to assess the
19 validity of any threats that he had made, and we had
20 about a 25, 30 minute conversation about the video.

21 Q Can you highlight that conversation for us?

22 A In that conversation Mr. Weinhaus, he
23 maintained that he was a peaceful person, that he
24 was trying to call people to arms and wake up
25 America. He would say things like he was planning

1 on removing corrupt officials and do this in a
2 peaceful manner; however, a situation like this was
3 exactly what the Second Amendment was created for,
4 and he would kind of waiver with the peaceful
5 statement and go back with another statement such as
6 his Army was going to take over America because
7 basically the constitution had failed. He just made
8 some radical type statements about the Government
9 and his beliefs.

10 Q Did he accuse any judicial officials of
11 treason?

12 A Yes, he accused several officials of
13 treason, and he asked myself and Scott Mertens if we
14 knew what the punishment was for treason.

15 MR. EASTWOOD: Your Honor, I object that the
16 question was leading and move to strike.

17 JUDGE SUTHERLAND: Overruled, go ahead.

18 Q (By Mr. Parks) Did he answer his own
19 question for you?

20 A Yes. Before we could answer the question,
21 he answered the question and said death is the
22 punishment for treason.

23 Q At this point was the conversation ended?

24 A Once we had finished talking about 25, 30
25 minutes, there come a point, he even gave me a copy

1 of his bulletin and explained to me some of his
2 personal beliefs about the Lord Jesus Christ, and
3 once we had come to basically where he started to
4 repeat himself in the conversation, we both kind of
5 ended the conversation.

6 Q What did you do next?

7 A At that point he started turning to go back
8 towards his residence, and I asked him to stop and I
9 explained that when I contacted him at the front
10 door that I smelled the odor of marijuana, and it
11 was at that point that I explained -- I asked
12 Mr. Weinhaus if there was any marijuana in the house
13 and he denied. At that point we had a short
14 conversation and he tried to step around me and go
15 towards the house.

16 Q What did you do?

17 A I stepped in front of him and rather than
18 get into an altercation or wrestling match of any
19 kind, I immediately told him to turn around and I
20 was going to handcuff him, and he immediately
21 submitted into the handcuff position and stuck his
22 wrists out. I handcuffed him. I explained to him
23 that I handcuffed him for his safety, that I was
24 going to apply for a warrant, and being as there was
25 no other officers there, I didn't want to get into a

1 wrestling match with him trying to get back into the
2 house. During that time he was screaming for
3 someone in the house to come and help him, that the
4 cops were going to search the house, they were
5 looking for drugs, and eventually someone did come
6 to the door.

7 Q Do you know who that individual was?

8 A It was Judy Kropf.

9 Q And what happened with her?

10 A My partner, Scott Mertens, contacted her and
11 she came to the door of the house.

12 Q Did you then apply for a search warrant?

13 A Yes, sir. I called for, of course, other
14 officers to arrive at the scene. Once they arrived
15 at the scene, I unhandcuffed Mr. Weinhaus and
16 explained to him that now that we had other
17 officers, he was free to leave but he could not go
18 back in the house. At that point I left Corporal
19 Mertens with the other officers guarding the house
20 and I came to apply for a search warrant for the
21 home.

22 Q I show you what has been marked as State's
23 Exhibit 2. Do you recognize this?

24 A Yes, sir.

25 Q What do you recognize this to be?

1 A It is a search warrant which I applied for
2 using an affidavit granting me permission to search
3 the home of Mr. Weinhaus.

4 Q This is the search warrant that you used to
5 search the house; is that correct?

6 A Yes, sir.

7 Q And this search warrant has the items that
8 you seized listed on it; is that correct?

9 A Yes, sir, it has a return and inventory
10 listing the items.

11 Q And it also has a picture of the front of
12 the house; is that correct?

13 A Yes, sir.

14 MR. PARKS: Your Honor, at this time I would
15 ask that State's Exhibit 2 be admitted into
16 evidence.

17 MR. EASTWOOD: No objection, Your Honor.

18 JUDGE SUTHERLAND: State's Exhibit 2 is
19 admitted.

20 MR. PARKS: I need to get my technical
21 expert up here.

22 JUDGE SUTHERLAND: Every office should have
23 a 15 year old.

24 Q (By Mr. Parks) And I show you here from the
25 search warrant, this is a picture of the front of

1 the house; is that correct?

2 A Yes, sir.

3 Q And this shows the narrow bushes and the
4 narrow sidewalk leading up to the door?

5 A Yes, sir.

6 Q And this is the door that the defendant came
7 out and you asked him to step around to the carport;
8 is that correct?

9 A Yes, sir, I did.

10 Q And that carport would be this area over
11 here; is that correct?

12 A Yes, sir.

13 Q After receiving the search warrant, what did
14 you do?

15 A After I received the search warrant, of
16 course I was driven by a local officer, once I
17 received the search warrant, we drove back to the
18 residence where Mr. Weinhaus was, and I contacted
19 Mr. Weinhaus there at his residence and informed him
20 that I had obtained a search warrant.

21 Q And did you and Corporal Mertens then begin
22 to search the house?

23 A After I gave Mr. Weinhaus a copy of the
24 search warrant and again informed him that he was
25 free to leave, he did not have to remain, we did

1 begin to search the house.

2 Q And where did you first start to search?

3 A We first began to search the main level. It
4 was a ranch style home with a basement. We searched
5 the upper level, the main level.

6 Q And what did you find there?

7 A Upstairs we found some laptop equipment as
8 well as video cameras, and we also located a nine
9 millimeter handgun in a night stand drawer by the
10 master bed.

11 Q Was there anything else in that drawer
12 besides the pistol?

13 A There was the box that the pistol had came
14 in. The box had paperwork which said that Judy
15 Kropf was the owner of the pistol. There was also a
16 green Army holster there with the weapon, as well as
17 the weapon was loaded with ammunition in a magazine;
18 however, there was not a round in the chamber.

19 Q I show you what has been marked as State's
20 Exhibit 3 and 4, do you recognize these?

21 A Yes, sir.

22 Q And are these the items or photographs as
23 they appeared to you on the day when you committed
24 or did the search?

25 A Yes, sir.

1 MR. PARKS: Your Honor, I would ask that
2 State's Exhibits 3 and 4 be admitted into evidence.

3 MR. EASTWOOD: No objection.

4 JUDGE SUTHERLAND: State's Exhibits 3 and 4
5 are admitted.

6 Q (By Mr. Parks) And I show you what has been
7 marked here as State's Exhibit No. 3. Can you tell
8 the jury what this is a photo of?

9 A It's a photo of the top drawer of the night
10 stand. It contains some hearing protection that you
11 can see on the right of the green holster. Inside
12 the green holster is a black nine millimeter
13 handgun.

14 Q And I show you what has been marked as
15 State's Exhibit No. 4, do you recognize this?

16 A Yes, sir, that is a picture of the handgun
17 after I removed it from the holster.

18 Q After searching the upstairs, and you say
19 you did not seize this pistol; is that correct?

20 A No, sir, I did not.

21 Q And why did you not seize this?

22 A The pistol was legally registered, it served
23 no evidence of a crime. It was totally legal for it
24 to be there and we left it where it was.

25 Q When you had spoken to Mr. Weinhaus before

1 doing the search, had he told you about any specific
2 areas of his house in the basement?

3 MR. EASTWOOD: Objection, leading.

4 JUDGE SUTHERLAND: Overruled, he may answer.

5 THE WITNESS: Would you repeat the question,
6 sir.

7 Q (By Mr. Parks) Yes. When you had your
8 conversation with Mr. Weinhaus, did he talk about
9 any specific rooms in the basement of the house?

10 A I don't recall that we discussed any
11 specific rooms in the basement.

12 Q Did he call a specific room the "command
13 center"?

14 MR. EASTWOOD: Objection, leading.

15 JUDGE SUTHERLAND: Overruled, you may
16 answer.

17 THE WITNESS: That term did come up during
18 our conversation.

19 Q (By Mr. Parks) And when you went to the
20 basement of the house, where did you go?

21 A When we arrived down in the basement, as
22 soon as we entered the basement there was a large
23 main room that was cluttered with boxes and looked
24 like a lot of personal belongings that normally
25 would be in a basement. There were a lot of

1 cardboard boxes and things in storage. Just off to
2 the right of the main part of the basement there was
3 cameras set up, a desk with a computer, a lot of the
4 banners and things that you saw in the video where
5 Mr. Weinhaus was running for coroner and the
6 backdrop basically for where he had made the videos.

7 Q And I show you what has been marked as
8 State's Exhibit No. 5. Do you recognize this?

9 A Yes, sir.

10 Q What do you recognize this to be?

11 A It is an area in the basement that I
12 observed that Mr. Weinhaus described as his command
13 center, as well as the area that I believe the
14 videos were made.

15 Q And does this photo fairly and accurately
16 represent what you saw there during the search?

17 A Yes, sir, it does.

18 MR. PARKS: Your Honor, I would ask that
19 State's Exhibit No. 5 be admitted into evidence.

20 MR. EASTWOOD: No objection, Your Honor.

21 JUDGE SUTHERLAND: State's Exhibit 5 is
22 admitted.

23 Q (By Mr. Parks) And here again, this is the
24 photo of the command center type room that you saw
25 in the basement of Mr. Weinhaus' house?

1 A Yes, sir, it is.

2 Q And this is the same back drop that was in
3 the two videos that we saw previously; is that
4 correct?

5 A I believe it was, yes, sir.

6 Q What did you search next?

7 A After we searched the main level, we
8 searched the basement area there by the command
9 center. I began to search the desk where the video
10 equipment was -- there was a video camera as well as
11 computer equipment sitting on top of the desk, and I
12 began to search the desk which contained that
13 equipment.

14 Q And what did you find?

15 A I opened up one of the drawers in the desk
16 and I found some drug paraphernalia, a set of
17 scales, rubber type Tupperware tub containing some
18 marijuana as well as smoking pipes and other
19 instruments.

20 Q Was there anything else in that can?

21 A Yes, sir.

22 Q What?

23 A There was a small Camel tin. It was almost
24 like a tin that Sucrets or something comes in, a
25 small metal tin.

1 Q And what was in that?

2 A When I opened up that tin, there was a pill
3 and a half and a partial portion of a small sliver
4 of another pill inside that I could see.

5 Q And did you seize those items?

6 A Yes, sir, I did.

7 Q And were those pills sent to the Missouri
8 State Highway Patrol?

9 A Yes, sir, they were.

10 Q I show you what has been marked as State's
11 Exhibits 6, 7 and 8. Do you recognize these?

12 A Yes, sir.

13 Q What do you recognize these to be?

14 A Exhibit 6 shows the photograph that I took
15 of the items that were in the desk. The Tupperware
16 contained the scales as well as the marijuana.
17 Exhibit 7 shows as I'm removing the items from the
18 plastic Tupperware dish it shows the metal tin, it
19 shows the scale removed as well as some smoking
20 devices. Exhibit 8 shows, after I've opened the
21 tin, it shows a pink pill, a half of a pink pill and
22 a little sliver of a blue pill.

23 MR. PARKS: Your Honor, I would ask that
24 State's Exhibits 6, 7 and 8 be admitted into
25 evidence.

1 MR. EASTWOOD: May I review the photographs
2 please before maintaining a position?

3 JUDGE SUTHERLAND: Yes.

4 MR. EASTWOOD: No objection, Your Honor.

5 JUDGE SUTHERLAND: State's Exhibits 6, 7 and
6 8 are admitted.

7 Q (By Mr. Parks) And I have up here what has
8 been admitted as State's Exhibit 6. Again could you
9 please explain to the jury what these are, it should
10 be on your monitor.

11 A It's a Tupperware type container containing
12 a scale, as well as a jar containing marijuana
13 residue, as well as the other items that we've
14 spoken about.

15 Q And I now show you what's been marked as
16 State's Exhibit No. 7. What is this a photo of?

17 A This is a photograph as I'm removing the
18 items from the Tupperware container and laying them
19 on the desk to document them.

20 Q And you said that this was drug
21 paraphernalia. Could you explain what the drug
22 paraphernalia is here in this picture?

23 A My picture is clearer than that picture.
24 Inside the Tupperware container there is a blue
25 smoking pipe, a red smoking pipe, as well as an

1 instrument used to grind marijuana or to chop it up
2 to refine it.

3 Q And what would the scale be used for?

4 A Measuring.

5 Q And I show you what has been marked as
6 State's Exhibit No. 8. Could you explain to the
7 jury what is here.

8 A This is a photograph of what was inside the
9 metal tin when I opened it.

10 Q And what is this, these two items right here
11 and here?

12 A There is a pink pill that is whole, there is
13 a half of a pink pill just underneath it, and to the
14 right of the tin there is a sliver of a blue pill.

15 Q And these are the way that you found the
16 items during your search?

17 A Yes, sir, it is.

18 Q And were these items packaged and sent to
19 the Missouri State Highway Patrol lab?

20 A Yes, sir, they were.

21 Q I show you now what has been marked as
22 State's Exhibits 9 and 10. You didn't do the
23 seizing of the evidence, Corporal Mertens did the
24 seizing of the evidence; is that correct?

25 A We did the seizing of the evidence together.

1 He packaged the evidence. I seized and photographed
2 the evidence and he packaged it. His handwriting is
3 always much neater than mine.

4 Q And is this package in the same condition as
5 when you all seized it?

6 A Yes, sir. It bears my signature here. It's
7 still sealed with the tape and initials. This as
8 well bears my signature here. It bears the tape and
9 the initials.

10 Q And both packages have blue tape at the
11 bottom, what is that from?

12 A The blue tape usually signifies -- officers
13 in the field use red tape and blue tape is used by
14 the laboratories to signify when they've opened the
15 package and conducted an examination. They reseal
16 it with blue tape.

17 Q At this time I would ask you if you could
18 open package No. 9.

19 MR. PARKS: At this time I would ask that
20 State's Exhibits 9 and 10 be admitted into evidence,
21 Your Honor.

22 MR. EASTWOOD: May I approach, Your Honor.

23 JUDGE SUTHERLAND: Yes.

24 (BENCH CONFERENCE BEGINS)

25 MR. EASTWOOD: Right now 9 and 10 are

1 described as marijuana and Morphine pills.

2 Obviously I'm not going to consent to them being
3 entered into the record as marijuana and Morphine.

4 MR. PARKS: I'm just introducing the
5 package.

6 JUDGE SUTHERLAND: Not proving what they
7 are?

8 MR. EASTWOOD: That's my point. I don't
9 have a chain of custody objection or anything like
10 that, but I don't want to concede that this is
11 marijuana or Morphine.

12 JUDGE SUTHERLAND: I'll overrule the
13 objection on the assumption the State is going to
14 prove this up somehow or another.

15 MR. PARKS: Not with this witness.

16 MR. EASTWOOD: Barring that, I have no
17 objection, Your Honor.

18 (BENCH CONFERENCE ENDS)

19 Q (By Mr. Parks) Could you open State's
20 Exhibit No. 9. Could you tell us what is in State's
21 Exhibit No. 9.

22 A In State's Exhibit No. 9 there is a glass
23 container, which is sealed in this cardboard box per
24 our laboratory, Ziplock style bag containing
25 marijuana and a brown paper bag containing

1 marijuana.

2 Q And could you please open --

3 MR. EASTWOOD: I object to the extent that
4 the witness is not qualified to testify what the
5 drug is.

6 MR. PARKS: Your Honor, the witness has
7 testified that he has had extensive training --

8 JUDGE SUTHERLAND: As far as the marijuana,
9 yeah, overruled.

10 MR. PARKS: Only to the marijuana is all I'm
11 asking for.

12 Q (By Mr. Parks) Could you please open what
13 has been marked as State's Exhibit No. 10, please.
14 And could you tell the jury what was in State's
15 Exhibit No. 10?

16 A A blue Camel tin that was identified in the
17 photographs earlier.

18 Q Could you open that tin.

19 MR. PARKS: And Your Honor, may I pass the
20 tin to the jury so that they may see the contents of
21 the tin? I might be able to put it on --

22 JUDGE SUTHERLAND: Yeah, I'd prefer you to
23 put it on the -- not that the jurors would pop the
24 pills but I don't want them to get spilled or
25 knocked out or something.

1 Q (By Mr. Parks) And I'm going to take these
2 out. These are the pink pill and part of the blue
3 pill; is that correct?

4 A Yes, sir.

5 JUDGE SUTHERLAND: Mr. Parks, if you have a
6 ways to go with this witness, I suspect you do, do
7 you need a break? I don't want to go another hour
8 and a half without a break. Why don't we take a
9 recess now if that's all right.

10 MR. PARKS: That will be fine, it's a good
11 stopping point.

12 JUDGE SUTHERLAND: We'll be in recess for 10
13 minutes. The Court again reminds you of what you
14 were told at the first recess of the Court. Until
15 you retire to consider your verdict, you must not
16 discuss this case among yourselves or with others or
17 permit anyone to discuss it in your hearing. You
18 should not form or express any opinion about the
19 case until it is finally given to you to decide. Do
20 not do any research or investigation on your own
21 about any matter regarding this case or anyone
22 involved in the trial. Do not communicate with
23 others about the case by any means. Do not read,
24 view or listen to any newspaper, radio, electronic
25 communication from the Internet or television report

1 of the trial. I hope you're paying attention to
2 that because we're going to have a test on that
3 instruction when the trial is over with. We'll be
4 in recess for 10.

5 (WHEREUPON A BRIEF RECESS TOOK PLACE)

6 JUDGE SUTHERLAND: We're not finished with
7 the first witness yet, but the parties have agreed
8 to put the laboratory technician from the Highway
9 Patrol laboratory on out of order. So we're going
10 to interrupt Sergeant Folsom's testimony to do that
11 right now. If you'd raise your right hand and be
12 sworn by the clerk, please.

13 (WHEREUPON MATTHEW FOX WAS SWORN IN)

14 **DIRECT EXAMINATION OF MATTHEW FOX**

15 **QUESTIONS BY MR PARKS:**

16 Q Please state your name for the record.

17 A My name is Matthew Fox.

18 Q How are you employed?

19 A I work at the Missouri State Highway Patrol
20 Crime Lab in Jefferson City, Missouri in the drug
21 chemistry section.

22 Q What are your duties there?

23 A I test solid dosage specimens for the
24 presence of controlled substances.

25 Q And what training have you had to do these

1 testings?

2 A I have a Bachelors in Science in Forensic
3 Chemistry from Ohio University in Athens, Ohio.
4 When I was employed by the Highway Patrol, I
5 underwent a six month on-the-job training period. I
6 passed a proficiency and competency exam. In
7 addition I go to various courses, lectures and
8 seminars about various topics in the field of
9 forensic chemistry.

10 Q Have you testified in Court before about
11 your testing of solid materials?

12 A Yes, sir, I have.

13 MR. PARKS: Your Honor, may the witness be
14 qualified as a chemist for the Highway Patrol?

15 MR. EASTWOOD: No objection, Your Honor.

16 JUDGE SUTHERLAND: Yes, he certainly may.
17 Go ahead.

18 Q (By Mr. Parks) And I show you what has been
19 marked as State's Exhibit No. 10, do you recognize
20 this?

21 A Yes, sir, I do.

22 Q How do you recognize this?

23 A This item has the unique seven digit lab
24 identifier that was placed on it when it came into
25 my custody, and in addition it has my initials and

1 date from when I opened the container.

2 Q What is the blue tape?

3 A The blue tape is the seal that I put on the
4 opening of the container after I finish testing the
5 evidence inside.

6 Q Is this in the same condition except for
7 where we opened it in Court here today?

8 A Yes, sir, it is.

9 Q Could you remove the items from there. And
10 could you open the tin, please. Do you recognize
11 the item in the tin, the pink item?

12 A Yes, sir, I do.

13 Q And how do you recognize that item?

14 A This item, after I tested it, I repackaged
15 it in the plastic bag, and I can tell that because
16 it has my initials and date as well as the unique
17 seven digit lab identifier that was associated with
18 it.

19 Q Was there also a half of pill that you
20 tested?

21 A I did not test the tablet fragment in here,
22 but there is a tablet fragment in here.

23 Q How do you go about doing the test on this
24 pill?

25 A So when I receive a tablet, I will open the

1 evidence, I will note any physical characteristics
2 about the evidence when it came in, how it was
3 contained. I'll note the color, the shape, any
4 pharmaceutical identifiers around the tablet. I'll
5 do a pharmaceutical look-up for those identifiers.

6 Q What is a pharmaceutical look-up?

7 A We have a program called RXID. It's a
8 computer program that has hundreds of different
9 pharmaceutical identifiers associated with different
10 tablets in it.

11 Q Are those the numbers that are pre-printed
12 on the tablets?

13 A Yes, sir. So I will do a comparison of
14 those numbers. I will make a printout of that.
15 I'll then take a sample of the tablet to test on my
16 instrument.

17 Q Did you do so in this case?

18 A Yes, sir, I did.

19 Q How do you use controls so that you don't
20 cross contaminate from one experiment to another?

21 A I open one item at a time. I completely
22 clean my area between items. In addition when the
23 sample is run on an instrument, I will also run a
24 blank in between each sample to show there was no
25 cross contamination leading from one sample to

1 another.

2 Q What kind of test did you do on this item?

3 A I did two tests. I did the pharmaceutical
4 identifier look-up, and I did a technique that's
5 known as gas chromatography and mass spectrometry.

6 Q What is that?

7 A That's actually two separate techniques.
8 Gas chromatography is the first technique, we call
9 that GC, and the second is mass spectrometry, which
10 we call MS. GC is a separation technique. You take
11 a mixture and place it in the instrument, and the
12 instrument will separate it out into its individual
13 components. Mass spectrometry is an identification
14 technique. You take an individual specimen, break
15 it down into its unique fragments, and based on
16 those fragments you can tell the composition of the
17 material.

18 Q Did you do that on the pink pill here?

19 A Yes, sir, I did.

20 Q And based upon your test results, were you
21 able to determine what this pill was?

22 A Yes, sir, I was.

23 Q What was it?

24 A The tablet contains morphine schedule two
25 controlled substance.

1 Q Did you write a report for your findings?

2 A Yes, sir, I did.

3 Q And I show you what has been marked as
4 State's Exhibit No. 31. Do you recognize this?

5 A Yes, sir, I do.

6 Q And is that the lab report that you wrote
7 for the items contained in State's Exhibit No. 10?

8 A Yes, sir, it is.

9 Q And how can you tell that that report is for
10 this item?

11 A This report has my signature and the date I
12 completed it, as well as the unique seven digit lab
13 identifier here in the top right-hand corner.

14 MR. PARKS: Your Honor, at this time I would
15 ask that State's Exhibit No. 31 be admitted into
16 evidence.

17 JUDGE SUTHERLAND: Any objection?

18 MR. EASTWOOD: I'm sorry, which exhibit is
19 it?

20 JUDGE SUTHERLAND: The lab report, 31.

21 MR. EASTWOOD: No objection, Your Honor.

22 JUDGE SUTHERLAND: State's Exhibit 31 is
23 admitted.

24 MR. PARKS: I have no further questions of
25 this witness at this time, Your Honor.

1 JUDGE SUTHERLAND: Cross examination.

2 MR. EASTWOOD: Thank you, Your Honor.

3 **CROSS EXAMINATION OF MATTHEW FOX**

4 **QUESTIONS BY MR. EASTWOOD:**

5 Q Mr. Fox, how long have you been with the
6 Highway Patrol lab?

7 A I've been employed with the Highway Patrol
8 for about seven and a half years now.

9 Q Is the Highway Patrol lab an ASCLD certified
10 lab?

11 A Yes, sir, it is.

12 Q And I'd ask that you tell the jury what
13 ASCLD is.

14 A ASCLD lab is an organization that certifies
15 laboratories to a standard.

16 Q And you have to go through annual
17 accreditation; isn't that right?

18 A They're not annual accreditations. I
19 believe our current accreditation cycle is five
20 years.

21 Q What level certification does the Highway
22 Patrol have?

23 A It's not the Legacy program, it's the ASCLD
24 lab program.

25 Q Legacy is a higher certification program?

1 A Legacy was the older program. They've
2 progressed from Legacy to the newest ASCLD lab.

3 Q And within the lab and pursuant to ASCLD
4 standards, it's fair to say you have to follow
5 certain procedures; isn't that right?

6 A Yes, sir, it is.

7 Q Otherwise the science is not considered to
8 be verifiable or proper, is that fair to say?

9 A Yes, sir.

10 Q Do you also have a QA/QC manual, quality
11 assurance/quality control manual?

12 A Yes, sir, we do.

13 Q And when you do the GC mass spec test, you
14 talked about, in fact you use a standard of the drug
15 in order to compare it against the sample you're
16 testing; isn't that right?

17 A No, sir, that's not always correct.

18 Q Oh, okay. What about here with the
19 Morphine. Would you have a standard for the
20 Morphine or no?

21 A We do have a standard present in the lab;
22 however, usually how I do my comparisons is I
23 compare them to a library that we purchased which
24 contains multiple numerous mass specs.

25 Q So the Morphine that you compared the sample

1 to, was that a standard or was that something from
2 the library?

3 A That was from the library, yes, sir.

4 Q How long had you had that library?

5 A I can't say off the top of my head. I
6 believe it's a 2008 edition.

7 Q And in your custom and practice and under
8 ASCLD rules, when you get say a pill, a tablet,
9 looks like it's a Morphine tablet perhaps, how many
10 times do you normally run it through the GC mass?

11 A With a tablet we do two tests, the first
12 test is the pharmaceutical identifier test and the
13 second test is usually a GCMS test.

14 Q For the GC mass spec, how many times do you
15 usually run the sample?

16 A One time.

17 Q How many times did you run it here?

18 A One time.

19 Q And what about for the -- did you perform
20 testing on the marijuana?

21 A Yes, sir, I did.

22 Q And how many times did you perform that
23 test?

24 A I tested three specimens of marijuana.

25 Q Three tests of the same sample?

1 A Marijuana testing is a little different than
2 testing we do on powders or tablets.

3 Q Can you tell the jury about that briefly in
4 layman's terms.

5 A Sure. Marijuana testing, what we'll do is
6 when I receive a specimen, I'll first weigh it and
7 look for physical characteristics under a
8 microscope. If I see those physical
9 characteristics, then I take a specimen of the
10 sample to perform two further tests.

11 Q Are you aware that some ASCLD labs around
12 the nation have had problems recently?

13 A I have heard news stories, yes, sir.

14 Q So has that led you and your lab and the
15 Highway Patrol to take heightened steps to make sure
16 that you're following the procedures and practices
17 that you ought to be?

18 A We have been continually accredited for a
19 number of years now, and as far as I know we have
20 not had any sort of issue regarding those kind of
21 issues regarding what you've heard about in the
22 news.

23 Q No issues of misconduct or negligence?

24 A None that I'm aware of.

25 Q There's been no failure to follow procedures

1 that you know of?

2 A How would you define a failure?

3 Q A failure to perform a proper test on a
4 controlled substance?

5 A No, sir.

6 Q Failure to follow the procedures that are
7 prescribed by ASCLD or your QA/QC manual?

8 A No, sir, none that I'm aware of.

9 Q And you're satisfied that the data here is a
10 good clean result to show the presence of Morphine?

11 A Yes, sir.

12 Q How come you didn't run the blue fragment?

13 A I did run the blue fragment, sir.

14 Q Well, I thought you said you didn't. I
15 thought you said you ran the pink tablet; right?

16 A No, there are two items here, item 3.8 was a
17 blue tablet fragment, and item 3.9 originally had a
18 purple tablet and a purple tablet fragment. Usually
19 in cases like this when I have a whole tablet and a
20 tablet fragment, I disregard the tablet fragment and
21 just perform my test on the tablet because the
22 tablet fragment doesn't have the full pharmaceutical
23 identifiers that the tablet would.

24 Q In your opinion were these different
25 substances or do you not know?

1 A I did not make any conclusion about the
2 purple tablet fragment.

3 Q The color difference suggests something
4 might be different?

5 A The color was the same as the tablet. The
6 purple tablet fragment had the same color as the
7 purple tablet.

8 Q Now in the Highway Patrol crime lab, you
9 don't, as a whole, perhaps -- do you specialize just
10 in drugs?

11 A I work in the drug chemistry section, yes,
12 sir.

13 Q But there are other sections in the lab;
14 right?

15 A Yes, sir, there are.

16 Q Those include latent fingerprints, looking
17 for fingerprints?

18 A Yes, sir.

19 Q DNA testing?

20 A Yes, sir, we have a DNA testing.

21 Q And other sections too like arson or
22 something like that, I don't know how you're set up.

23 A There are other sections in addition to the
24 ones that you named, yes, sir.

25 Q To your knowledge the Camel box that those

1 tablets were in, was any latent fingerprint analysis
2 performed on it?

3 A I do not know. I know I did not perform
4 drug analysis on the container.

5 Q So you have no idea whose fingerprints, if
6 any, are on that?

7 A No, sir.

8 Q And to your knowledge was any DNA testing
9 performed on either the tablets or the Camel box?

10 A To my knowledge, no, sir, there was no DNA
11 testing performed on either item.

12 Q So to your knowledge no DNA, no
13 fingerprints?

14 A That is correct, sir.

15 MR. EASTWOOD: Thank you very much for your
16 time today. No further questions.

17 **REDIRECT EXAMINATION OF MATTHEW FOX**

18 **QUESTIONS BY MR. PARKS:**

19 Q You said you identified the blue fragment?

20 A Yes, there's a bit of confusion. There are
21 two items within the Camel container, 3.8 was the
22 blue tablet fragment.

23 Q What was the blue tablet fragment?

24 A The tablet contained Morphine, a schedule
25 two controlled substance.

1 Q And then the blue tablet, did you test that?

2 A Yes, sir.

3 Q What was that?

4 A The blue tablet fragment contains Morphine.

5 MR. PARKS: Thank you. No further
6 questions.

7 JUDGE SUTHERLAND: Redirect?

8 MR. EASTWOOD: None, Your Honor.

9 JUDGE SUTHERLAND: May this witness be
10 excused?

11 MR. PARKS: Yes, Your Honor.

12 JUDGE SUTHERLAND: You may step down. You
13 are free to go. Are you going to recall Sergeant
14 Folsom?

15 MR. PARKS: Yes, please, Your Honor.

16 **CONTINUED DIRECT EXAMINATION OF SERGEANT FOLSOM**

17 **QUESTIONS BY MR. PARKS:**

18 Q Sergeant Folsom, we talked about you seizing
19 the drugs from your search. Did you seize any other
20 items?

21 A Yes, sir, I did.

22 Q What other items did you seize?

23 A We seized some computer equipment, some
24 video cameras.

25 Q After you had seized these items and

1 finished your search, what did you do next?

2 A After we seized the items and finished the
3 search, I provided Mr. Weinhaus with a copy of the
4 return listing the items that we had taken from the
5 residence.

6 Q And then what happened?

7 A The return was filed with the courts and the
8 items were processed as evidence and laid forward
9 for laboratory examinations.

10 Q When you serve a search warrant and the
11 person is there, do you usually leave a business
12 card?

13 A When the person is there?

14 Q Did you leave a business card with
15 Mr. Weinhaus?

16 A At some point I believe he asked me for a
17 business card, and I'm obligated to give that to
18 him. So I provided him with one.

19 Q And does that have your email address on it?

20 A Yes, sir, it does.

21 Q Did you start to receive emails from the
22 defendant at this time?

23 A Yes, sir, I did.

24 Q What was he asking for?

25 A There were various emails. One of them

1 wanted to know the name of my attorney that would be
2 representing me in the suit, and one of them, I
3 believe, asked where he could serve me with papers.

4 Q And did he ask for his computers back?

5 A I do not recall in an email if he asked for
6 his computers back. I know that he had a writ of
7 replevin that he asked for his computers back, and I
8 received that by email as well.

9 Q I direct your attention now to September
10 10th. Was a meeting held between you and your
11 supervisors with the Missouri State Highway Patrol?

12 A Yes, sir, it was.

13 Q And at that meeting was it decided that you
14 would arrest the defendant for the drug and the
15 tampering charges?

16 A At that meeting it was decided that actions
17 needed to be taken to take Mr. Weinhaus into
18 custody, or we were going to have to further monitor
19 his movements before September 17th, such as place a
20 GPS locator on his car or perform some type of
21 technical surveillance on him.

22 Q After this meeting, what did you do?

23 A After this meeting, of course I was given my
24 directions that I was to coordinate with you to find
25 out whether or not we could take him into custody or

1 to begin plans to place a locator on his vehicle and
2 set up some type of technical surveillance until the
3 17th because of the heightened state.

4 Q And you received an arrest warrant for the
5 defendant; is that correct?

6 A Yes, sir, I did.

7 Q What did you do next?

8 A At that point once I received -- I came and
9 applied for the arrest warrant and I received the
10 arrest warrant. At that point I contacted the
11 Franklin County Sheriff's Department and asked them
12 if they would assist me in serving the warrant.

13 Q And what happened next?

14 A They declined, they told me that they were
15 too busy.

16 Q And what happened next?

17 A At that point I was, of course, out of my
18 normal patrol area. I did not know anyone who had
19 jurisdiction to assist me, and Corporal Mertens
20 served the warrant, so I contacted the two FBI
21 agents that we worked with in Rolla who are out of
22 the St. Louis office and asked them if they would
23 accompany us, as well as I arranged for two marked
24 cars to be present during the operation in case
25 Mr. Weinhaus went mobile.

1 Q I direct your attention to September 11th,
2 2012. How did you formulate your plan to effect the
3 arrest?

4 A Based on limited resources, I placed the two
5 uniformed -- first I made arrangements to meet him
6 in a public place.

7 Q How did you make those arrangements?

8 A When I contacted him, luckily I was going to
9 bring it up but he brought it up first, I contacted
10 him by phone.

11 Q What did he tell you?

12 A That he did not trust me and he wished to
13 meet me in a public place.

14 Q What place did you decide or agree to meet
15 at?

16 A We had tentatively made plans to meet at a
17 gas station that was, I believe, less than a mile
18 from his house. It was a really secluded gas
19 station. Earlier that morning we drove by his house
20 and we believed that he was probably home; however,
21 I did not want to go to his house and serve the
22 arrest warrant because prior he had made several
23 threats against me, as well as on the Internet he
24 stated in one of his videos that he should have
25 placed a bullet in my head, as well as he called my

1 supervisors and complained that I had stolen items
2 from his home. So I felt based on the heightened
3 awareness that I should not go back to his home.
4 Which he also made a video where he stated that he
5 was at home with his guns loaded on Def-Con 4. So I
6 contacted him and tried to arrange to meet him in a
7 public place, and like I said luckily he actually
8 brought up that it be a public place.

9 Q So you agreed to meet at the MFA station on
10 Highway K; is that correct?

11 A Yes, at the station in the parking lot that
12 was adjacent to the station where it looked like at
13 one time they maybe parked big trucks.

14 Q And did you arrive at the MFA station first?

15 A Yes, sir, we did.

16 Q And what did you do when you arrived there?

17 A When we arrived there, it took about 45
18 minutes for the federal agents to arrive. Once they
19 arrived, we looked over the location, we agreed that
20 we would place -- Scott Mertens and I would place
21 our car in a highly visible area just off the road
22 so we could be observed when Jeff was to come to
23 meet us. We get the agents on the other side of the
24 building, they were dressed in plain clothes.
25 Normally myself and Corporal Mertens wear plain

1 clothes. We were dressed in plain clothes. And we
2 had the two marked units from Troop C Highway Patrol
3 unit stationed down the road on each side of the MFA
4 station kind of backed-off into someone's driveway.
5 In case there was a vehicle pursuit, they could shut
6 down the road.

7 Q And I show you what has been marked as
8 State's Exhibit No. 13. Can you see this from your
9 location there?

10 A No, I cannot, sir. I can see the top part.
11 Yes, sir.

12 Q And is this a diagram of the MFA station on
13 September 12th of 2012?

14 A Yes, sir, it is.

15 MR. PARKS: Your Honor, I would ask that
16 State's Exhibit No. 13 be admitted into evidence.

17 MR. EASTWOOD: No objection.

18 JUDGE SUTHERLAND: State's Exhibit 13 is
19 admitted.

20 Q (By Mr. Parks) And Sergeant Folsom, I'm
21 going to ask you if you can take the laser pointer.

22 A May I stand, sir?

23 Q Sure, and if you need to come around here to
24 the front, would that be all right?

25 JUDGE SUTHERLAND: Yeah, it's all right.

1 Stay away from the front of it. I can see all
2 right, so the jury can see it. It's not important
3 if I see it, it's important that the jury see it.

4 Q (By Mr. Parks) Does this -- this is the
5 location. Where were you parked?

6 A Corporal Mertens and I were parked here in
7 Corporal Mertens' vehicle just off the highway.
8 There's the main Route K here, and we were parked
9 highly visible here just off the road.

10 Q And where were the FBI agents located?

11 A The FBI agents were originally parked here
12 in their vehicle; however, during the time when we
13 were waiting for Mr. Weinhaus to arrive, someone was
14 repairing the gutters and they had to back up and
15 move here because they were asked by the employees
16 to move their vehicle.

17 Q And is this the location where the FBI
18 agents were located?

19 A Yes, sir. This is the location when the
20 incident took place where their vehicle was parked.

21 Q And this vehicle here, what is this vehicle?

22 A This vehicle represents Mr. Weinhaus'
23 vehicle parked.

24 Q And when he pulled into the driveway or into
25 the parking lot, how did he pull in?

1 A Mr. Weinhaus was coming down Route K here.
2 He made a left turn into the parking lot. He drove
3 passed our location at a high rate of speed, he
4 turned around here and came passed our vehicle here
5 and applied his brakes and slid on the gravel to a
6 stationary position here.

7 Q And in this diagram are there any items that
8 were next to the building that you saw that are not
9 on this diagram?

10 A In the diagram, I previously viewed the
11 diagram, there were gas pumps here; however, there's
12 photographs that show there was a large container
13 here where my dot is that contained propane tanks
14 where you exchange like at Lowe's.

15 Q Like barbecue kind?

16 A Yes, sir.

17 Q Okay, thank you very much. Sergeant Folsom,
18 I'm going to back up here because I forgot one item.
19 I'm going to show you what has been marked as
20 State's Exhibit No. 11. Do you recognize this?

21 A Yes, sir.

22 Q And what do you recognize this to be?

23 A It is a photograph of the brown bag that was
24 an exhibit that you previously had me open here, the
25 small brown bag.

1 MR. PARKS: Your Honor, I would ask that
2 State's Exhibit No. 11 be admitted into evidence.

3 MR. EASTWOOD: Can I see it? I won't
4 object.

5 Q (By Mr. Parks) To clarify this, where was
6 this photo taken?

7 A This photograph is taken in Mr. Weinhaus'
8 basement. There are on the main level to the right
9 is the area that we referred to as the command
10 center, and this is on a shelf basically between the
11 stairs and the command center.

12 MR. EASTWOOD: I have no objection, Your
13 Honor.

14 JUDGE SUTHERLAND: State's Exhibit 11 is
15 admitted.

16 Q (By Mr. Parks) When Mr. Weinhaus pulled into
17 the MFA station, did anything unusual occur?

18 A When he pulled into the MFA station, he
19 pulled in at a high rate of speed, and while he
20 drove passed us he was removing his seat belt.

21 Q What did you think?

22 A It looked that he was in a hurry to get out.

23 Q And as a highway trooper, are you trained on
24 high speed exits from cars?

25 A I received training from my FTO, Eric

1 Bolkmer, his training philosophy was there's no
2 reason why anyone should get out of the car faster
3 than you. So as soon as we begin to pull to the
4 shoulder, we remove our seat belt and begin to get
5 out of the vehicle. His rule was that we always
6 exited prior to contacting anyone or them exiting
7 their car.

8 Q And seeing Mr. Weinhaus remove his seat belt
9 before he got the car stopped, did this cause you
10 any thoughts?

11 A It just appeared to me that he was in a
12 hurry to get out.

13 Q Was there anything about the way he pulled
14 in and came close to your car that gave you pause?

15 A Originally I was in the passenger's side and
16 I had opened my door as he was driving passed our
17 vehicle, and I began to step out and when I heard --
18 I could not see his vehicle behind us completely but
19 I heard the engine accelerate, and when I heard the
20 engine accelerate I thought maybe at that point that
21 he was going to ram our vehicle, and I maintained my
22 seat in the position or seat in the vehicle until he
23 drove passed our position.

24 Q Now were you expecting any trouble from
25 Mr. Weinhaus that day?

1 A I was not expecting any physical trouble
2 from him, no.

3 Q How were you dressed?

4 A I was wearing a pair of 511 style, they're
5 police style plain pocket pants, five pocket pants
6 and a polo shirt with an emblem on it that said
7 Highway Patrol, large emblem.

8 Q How was Corporal Mertens dressed?

9 A A different shade of the 511 type pants and
10 a white polo shirt that had the Highway Patrol's
11 emblem on it.

12 Q Did you have your ballistic vest on?

13 A No, sir, we did not.

14 Q Why not?

15 A We had placed, of course, when we went to
16 meet him, we placed those items in our vehicle;
17 however, it was a bad tactical decision. We were
18 lazy and they sat in the back seat, and
19 Mr. Weinhaus, when I contacted him on the phone, he
20 told me originally that he would have people there
21 with him, and we felt like No. 1, we didn't deem him
22 to be a threat; and No. 2, if we exited the vehicle
23 and started putting on bullet proof vests and people
24 saw us, they would interpret that the wrong way. So
25 we made a bad decision, we were kind of lazy and

1 didn't put them on.

2 Q Were you armed at this time?

3 A Yes, sir, we were.

4 Q What were you armed with?

5 A In our vehicle we always have several
6 weapons; however, we were armed with our subcompact
7 Glock on our hip, which is our smallest pistol.

8 Q Did you have a larger Glock?

9 A Yes, sir.

10 Q Did you have shotguns?

11 A Yes, sir.

12 Q Did you have AR-15s?

13 A Yes, sir, we did.

14 Q But did you get any of these out of the car?

15 A No, sir.

16 Q When the defendant pulled in and stopped,
17 what did you do next?

18 A When he pulled in and stopped, I exited the
19 vehicle and I began to talk to him, tried to engage
20 him in dialogue. I had a manila folder in my right
21 hand, which contained a copy of the arrest warrant
22 as well as the affidavit and other paperwork that I
23 wanted to show him to show him that I actually did
24 have an arrest warrant for him.

25 Q And what else did you have, if anything?

1 A All I had was the manila folder in my hand,
2 my right hand, and my weapon on my left hip, I'm
3 left-handed.

4 Q Did you instruct Corporal Mertens to do
5 anything at this time?

6 A When I got out and I began to walk towards
7 the rear of Mr. Weinhaus' vehicle, Corporal Mertens
8 and I kind of met at the trunk of his vehicle. He
9 was a step or two in front of me. I reached forward
10 and grabbed his shoulder and kind of pulled back on
11 him and I explained to him that I wanted him to go
12 to the trunk of our car and open the trunk.

13 Q Why did you do that?

14 A I wanted to No. 1 continue the ruse that we
15 had his computer equipment that we were going to
16 return to give the FBI agents time to come across
17 the parking lot to be there, and at the same time
18 when Mr. Weinhaus had exited his vehicle, he turned
19 and faced me and was staring at me, and he never
20 took a step or moved from his vehicle, and I didn't
21 know if he was going to hop back in the vehicle and
22 drive off or if he was possibly waiting for me to
23 come around to speak with him.

24 Q What happened next?

25 A Corporal Mertens asked me was I sure and I

1 explained to him that I was sure, that I wanted him
2 to go to the trunk of the car, and I approached the
3 rear of Mr. Weinhaus' car and I peaked around the
4 side where I observed both his hands.

5 Q What did you see?

6 A They were both empty.

7 Q What happened next?

8 A When I looked around the car, Mr. Weinhaus
9 was standing in a bladed fashion towards me.

10 Q What do you mean by bladed fashion?

11 A Basically standing sideways with his left
12 foot in front of his right foot at a 45 degree
13 angle.

14 Q What happened then?

15 A When I stepped around the side of the
16 vehicle and I had the folder in my hand, it was at
17 that point that I could see on the right hip that
18 Mr. Weinhaus was carrying a large green Army holster
19 with a black handgun in the holster.

20 Q And what happened then?

21 A At that point I was kind of shocked, I still
22 had the folder in my hand and I began to place my
23 hand on my weapon as I was bladed facing him, and I
24 asked him what are you doing with that gun.

25 Q And was your weapon drawn at this time?

1 A I was in the process of removing my weapon
2 from the holster and placing it at the low ready.

3 Q What is the low ready?

4 A Down by my side just in front of my hip.

5 Q When you asked Mr. Weinhaus why he had the
6 gun, what happened then?

7 A He replied something to the effect of what
8 are you doing with your gun.

9 Q And what did you say?

10 A I replied something to the effect of I was
11 authorized, and he said "well, I'm authorized too"
12 or something of that nature.

13 Q During this conversation, could you see
14 Mr. Weinhaus' hands?

15 A Yes, sir.

16 Q What was he doing with his hands?

17 A At that point both his hands were down at
18 his side, and after he replied "well, I'm
19 authorized," he started reaching his right hand down
20 and manipulated the flap on the holster that he was
21 wearing.

22 Q Are you familiar with that type of holster?

23 A Yes, sir. I was issued that holster in the
24 United States Army for several years, and I
25 personally own one.

1 Q What happened next?

2 A He began to pull -- there's a safety ring
3 there which requires you to pull the ring all the
4 way down. He began to pull the ring down with his
5 right hand and disengage the flap.

6 Q What happened then?

7 A At that point, utilizing his right hand, he
8 swept the flap up. The flap covers the entire
9 weapon and goes all the way down the side of the
10 holster. He swept the flap up and placed his hand
11 on the buttstock of the weapon.

12 Q What did you do?

13 A At that point I ordered him to get on the
14 ground.

15 Q And what did he do?

16 A At that point he did not get on the ground.
17 He turned and instead of standing at a bladed
18 position towards me, now he was squared up to me, we
19 were squared face to face, toe to toe.

20 Q During this time where was the defendant's
21 eyes?

22 A His eyes never left my face.

23 Q What happened next?

24 A At that point I began to raise my weapon
25 thinking that Mr. Weinhaus was going to draw his

1 weapon, and at that point I observed in my line of
2 sight was some people at the gas station propane
3 tanks and fuel tanks, and I could not fire my
4 weapon.

5 Q What did you do?

6 A Stepped left to change my angle of contact
7 with Mr. Weinhaus.

8 Q Where was Mr. Weinhaus' hands at this time?

9 A He was still manipulating the holster on his
10 weapon. His right hand was on the holster,
11 underneath the holster's flap on the gun. His left
12 hand I have no idea, I was just staring at his right
13 hand. My vision began to tunnel in, and I was just
14 fixed on his right hand on that weapon.

15 Q In a shooting situation, is this unusual for
16 your vision to start tunneling in on one particular
17 area?

18 A In my training, no, it's not unusual.

19 Q What happened next?

20 A At that point I stepped left and I had a
21 clear line of sight, and it was at that point
22 Mr. Weinhaus, I again ordered him as well as
23 Corporal Mertens ordered him to get down on the
24 ground. At that point he looked me square in my
25 face and said, "you're going to have to shoot me" as

1 he continued to draw the weapon out.

2 Q And what did you do?

3 A As he pulled the weapon out, again that was
4 the only thing that I was focused on was the weapon,
5 I watched the weapon come all the way up out of the
6 holster, except for about the last inch of the
7 weapon.

8 Q What happened next?

9 A The holster required him to draw the weapon
10 up in an extreme position and then cant the weapon.
11 As soon as he had the weapon all the way up and it
12 was about an inch out of the holster, I fired two
13 shots to his chest and one to his head to
14 incapacitate him as I continued to step left away
15 from the gas pumps.

16 Q And did you hit him?

17 A Yes, I hit him.

18 Q And what did he do?

19 A At that point I heard -- I did not hear the
20 gunshots from my gun, but I felt the recoil, but I
21 saw the blood begin to spurt from his chest. He was
22 wearing a dress shirt like I have on now and a tie,
23 and I physically was maybe seven feet from him, and
24 I saw the rounds hit and the blood begin to spurt
25 from his chest, and I saw both his eyes rolled up in

1 his head, and there was just the whites of his eyes
2 showing.

3 Q What did you think had happened at this
4 time?

5 A I was pretty sure that I had killed him,
6 that I had incapacitated him.

7 Q I show you what has been marked as State's
8 Exhibit No. 27. Could you open this for us, please?

9 A Yes, sir.

10 Q And I show you a holster that was taken from
11 State's Exhibit No. 27. Is this the same type of
12 holster that Mr. Weinhaus was wearing?

13 A Yes, sir.

14 Q Do you know if this was the same holster?

15 A I do not know, I know that looks to be the
16 same type holster.

17 Q Do you know if this was the same holster
18 that you saw in his house when you performed the
19 search warrant?

20 A No, sir, I do not.

21 Q But it looks like that same type of holster?

22 A Yes, sir, it looks like it.

23 Q And I show you a nine millimeter pistol that
24 was in Exhibit 27. Do you recognize this?

25 A Yes, sir, it's a High Point nine millimeter

1 semiautomatic pistol.

2 Q Was this the pistol that the defendant had
3 on him on September 11th?

4 A I believe so. I did not seize the weapon
5 but it looks like it.

6 Q But it looks like the same weapon?

7 A Yes, sir.

8 MR. PARKS: Your Honor, I would ask that
9 State's Exhibit 27 be admitted into evidence.

10 MR. EASTWOOD: No objection.

11 JUDGE SUTHERLAND: State's Exhibit 27 is
12 admitted.

13 Q (By Mr. Parks) Could you take this holster,
14 please. Could you show the jury how the defendant
15 was wearing this holster on September 11th.

16 A May I stand, sir?

17 Q Sure, please. And you're doing something
18 with the weapon now, what is that?

19 A This is the belt loop catch, so I'm just
20 lifting up the belt loop catch so I can insert the
21 holster onto my belt.

22 Q And they have a little -- it has a spring
23 load there that catches back in so it won't fall off
24 your belt; is that right?

25 A Yes, sir, it has a safety device, I didn't

1 clip it but it clips back into the metal.

2 Q When a weapon is in that holster, how do you
3 get the weapon out?

4 A In order to retrieve the weapon, you have to
5 pull this black plastic ring here all the way down
6 until the metal clip here breaks free of all the
7 way -- it's secured underneath this plastic all the
8 way into here, so that piece of metal has to come
9 all the way down for the flap to disengage.

10 Q And when you first saw the defendant, how
11 was the flap of the holster?

12 A It was secure and the weapon was secured.

13 Q What did you see the defendant do to this
14 holster?

15 A I saw him manipulate the flap, pull the flap
16 back and place his hand on the buttstock of the
17 weapon.

18 Q And then what did he do with the weapon?

19 A He began to draw the weapon out after he
20 made the comment "you're going to have to shoot me,
21 man", and he drew the weapon out to here where he
22 was just not able to yet cant it forward when I
23 fired.

24 Q Thank you. Now after the defendant fell, or
25 let me rephrase that. How did the defendant fall

1 after he had been shot?

2 A I fired two shots to his head, one -- two
3 shots to his chest and one to his head, and I began
4 to scan left. I heard some screaming at the gas
5 station, and I did not know if there were other
6 people involved. Mr. Weinhaus stated he was going
7 to bring people with him and that he would not be
8 alone, so I did not know if I hadn't shot one of
9 those people at the gas station. So I began to look
10 towards the gas station and scan for other threats
11 when I heard a loud gunshot to my right towards the
12 area where Mr. Weinhaus was standing. At that point
13 I traversed my weapon back to the right, and I had
14 already taken a step forward and to the left, and I
15 fired one last shot to his head.

16 Q And did he fall backwards, did he fall
17 forwards, how did he fall?

18 A When I fired the last shot to his head, he
19 had the weapon in his right hand, the weapon was in
20 his hand, his head immediately flinched back and he
21 dropped violently straight towards the ground and
22 piled up with his arms underneath his chest with his
23 buttocks in the air and his legs kind of tucked
24 underneath him a little bit, almost like a toddler
25 sleeps.

1 Q And where was the weapon at this time?

2 A The weapon was underneath him, I presume,
3 because I couldn't see it.

4 Q What did you do?

5 A At that point I continued to scan and see if
6 I saw anyone else with a weapon or anything else.
7 The FBI agent was running towards me, Mike
8 Maruschak. I asked him to cover me as I moved
9 forward, and I rolled Mr. Weinhaus over onto his
10 left side, and I saw the weapon was lying underneath
11 him, just out of the holster. The buttstock of the
12 weapon was still in his fingertips; however, none of
13 his fingers were near the trigger guard or trigger
14 housing, and I could clearly see that he was totally
15 incapacitated. He was totally limp.

16 Q What did you do then?

17 A I still had my weapon in my left hand. I
18 took the weapon from underneath him and jammed it
19 down into the holster.

20 Q Why did you do that?

21 A Because I knew that better than to throw it
22 or tuck it in my waist band and shoot myself or have
23 an accidental discharge, I was really nervous, so I
24 jammed the weapon into the holster because I knew it
25 would be secure there, there was no way it could go

1 off.

2 Q What did you do with the holster?

3 A I asked for Mike Maruschak to cover me and
4 he assumed the position of cover pointing his weapon
5 towards Mr. Weinhaus. I reached down and clipped
6 those clips that you saw me clip before, and I threw
7 the whole thing behind me.

8 Q The holster and the weapon behind you?

9 A Yes, sir, and then I handcuffed
10 Mr. Weinhaus.

11 Q Did you then call for an ambulance?

12 A Almost immediately I had yelled after I
13 handcuffed him to call for an ambulance, and Mike
14 Maruschak, the FBI agent, told me he would. And at
15 that point Corporal Mertens yelled from beside the
16 car that he had already called, they were on the
17 way.

18 Q I show you now what has been marked as
19 State's Exhibit No. 15. Do you recognize this?

20 A Yes, sir.

21 Q What do you recognize this to be?

22 A It is a copy of the watch video that was
23 discovered later that Mr. Weinhaus was wearing. I
24 never saw it, it was some type of digital watch that
25 recorded.

1 Q You didn't see the watch but you've seen the
2 video?

3 A I've seen the video, yes, sir.

4 Q Is this a fair and accurate representation
5 of the video taken from the wrist watch video/audio
6 camera?

7 A Yes, sir, it is.

8 MR. PARKS: At this time I would ask that
9 State's Exhibit 15 be admitted into evidence.

10 MR. EASTWOOD: I would just ask that
11 Mr. Parks provide a little more foundation in the
12 sense that this was the watch that was worn at the
13 scene as well. So let me just get that in for the
14 record.

15 MR. PARKS: I have to do that with another
16 witness, Your Honor, because this witness does not
17 know anything about the wrist watch video at the
18 scene.

19 JUDGE SUTHERLAND: We ought to wait then.

20 MR. EASTWOOD: I will not object, then, to
21 the contents of the video itself.

22 JUDGE SUTHERLAND: State's Exhibit 15 then
23 is admitted.

24 MR. PARKS: And I ask permission to play the
25 video at this time.

1 MR. EASTWOOD: No objection.

2 JUDGE SUTHERLAND: Not too long, I guess?

3 MR. PARKS: About nine minutes.

4 (WHEREUPON THE VIDEO WAS SHOWN)

5 Q (By Mr. Parks) Sergeant Folsom, is the rest
6 of the video of the ambulance personnel arriving and
7 performing medical procedures on the defendant?

8 A Yes. Prior to that there's some of Scott
9 Mertens and I -- Scott Mertens tried to provide
10 medical aid to Mr. Weinhaus while I secured the
11 scene.

12 JUDGE SUTHERLAND: I assume there's no
13 representation that the date that was showing on the
14 video was accurate?

15 MR. PARKS: No, Your Honor.

16 Q (By Mr. Parks) And Sergeant Folsom, I show
17 you what has been marked as State's Exhibit No. 16.
18 Can you identify that, please?

19 A That is the location of the shooting.
20 There's Corporal Mertens' white patrol car and
21 Mr. Weinhaus' green Subaru.

22 Q And are those in the same position as on
23 State's Exhibit 13?

24 A Yes, same as on the diagram.

25 Q And I show you State's Exhibit 17, do you

1 recognize this?

2 A Yes, sir.

3 Q What is this a photo of?

4 A It's a photo of the other side of the
5 vehicle. It's a different angle of the crime scene
6 there at the gas station.

7 Q And I show you State's Exhibit No. 18, do
8 you recognize this?

9 A Yes, sir, that is a different angle of the
10 same area, same vehicles.

11 Q And I show you State's Exhibit No. 19, do
12 you recognize this?

13 A Yes, sir, that is another angle of the
14 vehicles there in the parking lot.

15 Q And I show you State's Exhibit No. 14, do
16 you recognize this?

17 A Yes, sir, that is -- looks like a more
18 distant shot of the area.

19 Q And these are showing the cars, Corporal
20 Mertens' car and the defendant's car as they were on
21 the day of September 11th, 2012?

22 A Yes, sir, it does.

23 Q And do these photographs fairly and
24 accurately represent the way the scene was?

25 A Yes, sir, they do.

1 Q Now there's some Highway Patrol and county
2 vehicles in these photographs, but those vehicles
3 came afterwards; is that correct?

4 A Yes, sir.

5 Q But these vehicles would be fair and
6 accurate representations of the scene as you saw it
7 that day?

8 A Yes, sir, it would.

9 MR. PARKS: Your Honor, I would ask that
10 State's Exhibits 14, 16, 17, 18 and 19 be admitted
11 into evidence.

12 MR. EASTWOOD: Can I look at them, please,
13 Judge?

14 JUDGE SUTHERLAND: Yes.

15 MR. EASTWOOD: No objection, Your Honor.

16 JUDGE SUTHERLAND: State's Exhibits 14, 15,
17 16, 17 and 18 are admitted. Did you offer 19 or
18 just 18?

19 MR. PARKS: 18 and 19.

20 JUDGE SUTHERLAND: 18 and 19 are admitted.

21 Q (By Mr. Parks) I'm going to show you here
22 State's Exhibit No. 14. Do you see in this picture
23 the propane tanks that you were talking about?

24 A Yes, sir, here along the building there's an
25 ice machine as well as to the left of it is the cage

1 of propane.

2 Q And you would have been coming from the
3 passenger side of the white car, here on State's
4 Exhibit 13, you would have gotten out of the
5 passenger side of the white car; is that correct?

6 A Yes, sir.

7 Q And you would have come around to an area
8 approximately here?

9 A Yes, sir.

10 Q And this is where you said the defendant got
11 out of his car and was standing approximately here?

12 A He was standing by the driver's door of his
13 vehicle.

14 Q Right here?

15 A Yes, sir.

16 Q And those are -- you can tell where he was
17 standing by the debris that was left from the
18 medical personnel, is that correct, in those
19 photographs?

20 A The medical debris represents where he fell.
21 I don't believe it would indicate exactly where he
22 was standing. He was standing more towards the
23 vehicle, and the medical debris is more towards the
24 left.

25 Q And you told Corporal Mertens to pop his

1 trunk and he did so here?

2 A Yes, sir, he went back to the trunk.

3 Q From your position here you're looking over
4 toward -- right in here is where you saw those gas
5 tanks; is that correct?

6 A Yes, sir, there's gas tanks, people and gas
7 pumps there.

8 Q So you left the cover of your car, moved to
9 the left so that you wouldn't be firing directly
10 into the gas pumps or the gas tanks; is that
11 correct?

12 A That is a correct statement; however, you
13 pointed the pointer at the back of our car and I
14 moved from the back of Mr. Weinhaus' car to change
15 the angle.

16 Q Over into this area?

17 A Yes, so that my shots would go into the area
18 between the FBI car and the curb.

19 Q And could you come down and mark on here
20 where you ended up?

21 A Where I ended up standing up during the
22 shooting, sir?

23 Q Yes.

24 A I ended up somewhere in here. I was
25 originally here.

1 Q And where was the defendant standing?

2 A Here.

3 Q Put a D there. And the O is where you
4 started and the X is where you ended up?

5 A Yes, sir.

6 MR. PARKS: Your Honor, I have no more
7 questions of this witness at this time.

8 JUDGE SUTHERLAND: I told the jury we'd
9 recess around 5:00 give or take, and we're right
10 around 5:00, so I think we're going to recess.
11 Sergeant Folsom, I'll have to ask you to come back
12 tomorrow morning. Ladies and gentlemen, you may
13 have noticed that this particular room is sometimes
14 more like a dictatorship than a democracy. I want
15 to return a little democracy to the proceeding. Can
16 we start a little early tomorrow? Is it okay if we
17 start at 8:30? Anybody got a problem with that?
18 You have a little question mark on your face, is
19 that a problem, Ms. Stack, is that okay? If that's
20 all right, we'll start at 8:30. The earlier we get
21 started, the earlier we'll get done whenever we get
22 done. If you could be in the jury room perhaps 15
23 minutes before that, 8:15 or so, so we can get a
24 head count and make sure everybody is here, give you
25 a chance to go to the restroom if you need to before

1 we start at 8:30 if that's okay, gentlemen?

2 MR. PARKS: Yes, sir.

3 MR. EASTWOOD: Yes, sir.

4 JUDGE SUTHERLAND: The Court reminds you
5 until you retire to consider your verdict, you must
6 not discuss this case among yourselves, with others
7 or permit anyone to discuss it in your hearing. You
8 should not form or express any opinion about this
9 case until it is finally given to you to decide. Do
10 not do any research or investigation on your own
11 about any matter regarding this case or anyone
12 involved with the trial. Do not communicate with
13 others about the case by any means. Do not read,
14 view or listen to any newspaper, radio, electronic
15 communication from the Internet or television report
16 of the trial. I show it's about 4:59 p.m. We're in
17 recess until 8:30 a.m. tomorrow morning.

18 (COURT RECESSED FOR THE DAY)

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1 State of Missouri

2 SS.

3 County of Franklin

4 I, Kim Wrocklage, duly commissioned, qualified
5 and authorized to administer oaths and to certify to
6 depositions, do hereby certify that pursuant to
7 agreement in the civil cause now pending and
8 undetermined in the Circuit Court of Franklin
9 County, State of Missouri, to be used in the trial
10 of said cause in said court, I was attended at the
11 Franklin County Justice Center, 401 E. Main Street,
12 Union, in the County of Franklin, State of Missouri
13 on the 8th day of October, 2014.

14 The said witnesses were sworn to testify the
15 truth, the whole truth, and nothing but the truth in
16 the case aforesaid and thereupon testified as is
17 shown in the foregoing transcript. Said testimony
18 was reported by me in shorthand and caused to be
19 transcribed into typewriting, and the foregoing
20 pages correctly set forth the testimony of the
21 aforementioned witnesses, together with the
22 questions propounded by counsel and remarks and
23 objections of counsel thereto, and is in all
24 respects a full, true, correct and complete
25 transcript.

1 I further certify that I am not of counsel or
2 attorney for either of the parties to said suit, not
3 related to nor interested in any of the parties or
4 their attorneys.

5
6 _____/s/ Kim Wrocklage_____
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